

JOURNAL
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AND
INTERNATIONAL LAW

EDITED FOR
THE SOCIETY OF COMPARATIVE LEGISLATION
BY
SIR JOHN MACDONELL, K.C.B., LL.D., F.B.A.
AND
C. E. A. BEDWELL, ESQ.

Let observation, with extensive view,
Survey mankind from China to Peru.
SAMUEL JOHNSON.

THIRD SERIES. VOL. III. REVIEW OF LEGISLATION.

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SOCIETY OF COMPARATIVE LEGISLATION,
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1921.

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III. AUSTRALASIA—

1. Commonwealth of Australia.	
<i>Contributed by G. S. Knowles, Esq.</i>	45
2. New South Wales	50
3. Queensland.	
<i>Contributed by the Hon. L. E. Groom, M.A., LL.M.,</i>	
<i>M.P., and J. F. Gamble, Esq., B.A., LL.B.</i>	50
4. South Australia.	
<i>Contributed by A. J. Hannan, Esq., M.A., LL.B.</i>	55
5. Tasmania	67
6. Victoria.	
<i>Contributed by His Honour Judge Zichy-Woinarski, K.C.,</i>	
<i>and W. Harrison Moore, Esq.</i>	69
7. Western Australia. <i>Contributed by F. L. Stow, Esq., LL.D.</i>	78
8. Papua. <i>Contributed by the Hon. Mr. Justice Herbert</i>	86
9. New Zealand. <i>Contributed by J. Christie, Esq., LL.M.</i>	88
10. Fiji. <i>Contributed by His Honour A. K. Young, K.C.</i>	100
11. British Solomon Islands Protectorate.	
<i>Contributed by His Honour A. K. Young, K.C.</i>	102

IV. SOUTH AFRICA—

1. Union of South Africa.	
<i>Contributed by E. L. Matthews, Esq., K.C., C.M.G.</i>	103
2. Cape of Good Hope. <i>Contributed by G. M. Swift, Esq.</i>	121
3. Transvaal. <i>Contributed by G. Hartog, Esq.</i>	123

V. BRITISH INDIA—

1. Acts of the Indian Legislative Council.	
<i>Contributed by A. P. Muddiman, Esq., C.S.I., C.I.E.</i>	125
2. Madras	130
3. Bombay	131
4. Bengal	131
5. Bihar and Orissa	133
6. Assam	133
7. United Provinces	133
8. Central Provinces	134
9. Punjab	134
10. Burma	134
11. Regulations under s. 71 of the Government of India Act, 1915	135
12. Ordinances under s. 72 of the Government of India Act, 1915	135

VI. EASTERN COLONIES—

1. Ceylon.	
<i>Contributed by L. Maartensz, Esq., Acting District Judge,</i>	
<i>Colombo</i>	136

TABLE OF CONTENTS.

v

	PAGE
2. Mauritius. <i>Contributed by E. Koenig, Esq.</i>	137
3. Straits Settlements. <i>Contributed by A. De Mello, Esq.</i>	138
4. Federated Malay States. <i>Contributed by A. De Mello, Esq.</i>	140

VII. WEST AFRICA—

1. Gambia. <i>Contributed by T. J. Turbett, Esq.</i>	140
2. Gold Coast. <i>Contributed by R. W. H. Wilkinson, Esq.</i>	142
(i) Ashanti	144
(ii) Northern Territories	144
3. Nigeria. <i>Contributed by E. Gardiner Smith, Esq.</i>	144

VIII. EAST AFRICA—

Zanzibar Protectorate.

<i>Contributed by J. E. R. Stephens, Esq.</i>	146
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IX. WEST INDIES—

1. The Bahamas.	
<i>Contributed by the Hon. Harcourt Malcolm, O.B.E., K.C.</i>	148
2. Jamaica.	
<i>Contributed by the Hon. E. St. John Branch, K.C.</i>	150
3. Windward Islands.	
(i) Grenada	151
(ii) St. Lucia. <i>Contributed by the Hon. J. E. M. Salmon</i>	152
(iii) St. Vincent.	
<i>Contributed by the Hon. J. E. M. Salmon</i>	152
4. Trinidad and Tobago.	
<i>Contributed by the Hon. the Attorney-General</i>	154
5. Leeward Islands. Federal.	
<i>Contributed by the Hon. W. M. Wigley</i>	156
(i) St. Christopher and Nevis.	
<i>Contributed by the Hon. W. M. Wigley</i>	156
(ii) Dominica	157

X. MEDITERRANEAN COLONIES—

1. Cyprus. <i>Contributed by Mr. Justice Stuart</i>	157
2. Gibraltar.	
<i>Contributed by Capt. Maxwell Anderson, C.B.E., K.C.,</i>	
<i>R.N. (ret.)</i>	157

FOREIGN—

1. Argentine Republic. <i>Contributed by Dr. Escobar</i>	158
2. Chile. <i>Contributed by Senor Labatut</i>	159
3. China. <i>Contributed by Professor Wang King Ky</i>	160
4. Cuba. <i>Contributed by R. R. Altunaga, Esq.</i>	163
5. France. <i>Contributed by O. E. Bodington, Esq.</i>	167

TABLE OF CONTENTS.

	PAGE
6. Italy. <i>Contributed by</i> Professor Mario Sarfatti . . .	170
7. Japan. <i>Contributed by</i> R. Masujima, Esq.	174
8. Netherlands.	
<i>Contributed by</i> the International Intermediary Institute	177
9. Netherlands East Indies.	
<i>Contributed by</i> the International Intermediary Institute	178
10. United States	187
North Borneo. <i>Contributed by</i> C. F. C. Macaskie, Esq. . .	200

THE RIGHT HON. LORD SHAW OF DUNFERMLINE.

[Contributed by G. W. WILTON, ESQ., K.C., Scotland, and of the Middle
Temple, Barrister-at-Law.]

LORD SHAW graduated as Master of Arts in 1874 at the University of Edinburgh, where, besides gaining the Hamilton Fellowship in Mental Philosophy, he obtained the Lord Rector's Prize Essay upon the causes preventing the South American conquests of Spain from adding to its permanent power and wealth. Never wholly abandoning his philosophical studies, he has, on the other hand, always been a keen student of the constitutional history of Great Britain, with an outlook other than that of the mere dilettante, and befitting that of the broad, practical man of affairs. His lecture upon Legislature and Judiciary, delivered under the auspices of London University and published in 1911, is of particular interest in this connection. Especially equipped as a scholar, Lord Shaw entered in 1875, at the age of twenty-five, after taking his degree of Bachelor of Laws, upon the profession of advocacy as a member of the Faculty of Advocates in Scotland. Passing nearly thirty-four years altogether at the Scottish Bar, he was for many years one of its leaders, first of the junior, and then of the senior Bar. He took silk in 1894, and in that year was made Solicitor-General for Scotland. In the traditions of the Scottish Bar he lives as the "master of a most moving eloquence," as was said on his presentation for the degree of Doctor of Laws at the University of Edinburgh. For nearly twenty years Lord Shaw was a member of the House of Commons, until in 1909, when he was Lord Advocate for Scotland, he was appointed a Lord of Appeal in Ordinary in succession to Lord Robertson.

In the work of the Privy Council Lord Shaw has taken an active part, and has shown a masterly grasp both of fact and law. The Civil Law is the foundation of the Municipal Law of Scotland, so that, from his University training and his practice as a Scottish pleader, he enjoys an advantage not generally shared by his English colleagues on the Board. It would be impossible to mention all the important cases in which he has delivered the opinion of the Court. Reference may be made to one peculiarly interesting case in the Indian Law Reports, based upon reasoning of Imperial application, and significant at the same time both of the importance and of the variety of the causes coming yearly to the Board from the Empire of India alone, and likewise illustrative of the universality of principle not infrequently applied in their solution. Early in the course of last century islands rose from the sea at the mouth of the Godaverī, a tidal and navigable river, in Madras Province within the three-mile limit of the shore. These

islands, formed by the consolidation of the sand and slob brought down by the floods of the river, became forest or jungle. Certain zamindars set up rival claims to their ownership. The Government of India desired in 1901, under an Act of the Madras Legislature, to include the islands as part of a Forestal Area. In 1882 the rival "landowners" had tactfully compromised their claims to the islands by jointly leasing them to the same tenant and sharing in the rents. Accordingly, they combined in objecting to the inclusion of the islands within the Government Reserve upon the ground that they had been proprietors long in possession. The District Judge held that the title to the islands was originally in the Crown, and as the zamindars could not prove possession as of right against the Crown for the prescriptive period of sixty years required by Indian Law, their claim fell to be rejected. The High Court at Madras reversed his finding. The Secretary of State for India appealed to the King in Council. On the advice of the Judicial Committee, consisting for this appeal of Lords Sumner and Parmoor, Sir John Edge and Sir Lawrence Jenkins, and Mr. Ameer Ali, with Lord Shaw as Chairman, the judgment of the District Judge was restored. The opinion (recorded in 43, *Indian Law Reports*, at page 196) contains an illuminating survey of the foundation of Crown rights in territorial waters. Appealing to Hale, Lord Shaw shows from the *De Jure Maris* how the Sovereign holds the title to "maritima incrementa" in any one of three ways, and in particular "3. Per insulæ productionem," where, as in this case, the islands had emerged from the bed of the sea within three miles of the Sovereign's territory. Well-known Scottish precedents of high sanction were also cited among other authorities there dealt with. In the circumstances the zamindars were but squatters, and could not prescribe any right. It would give a wrong impression of Lord Shaw's work as a judge, and pre-eminently as a constitutional lawyer, to suggest that his judgment in this case brings into relief any partiality for Crown rights in contrast with subject liberties. He has maintained the rights of both with equal ardour, in accordance with the justice of their respective claims. In the domain of purely private rights, it is interesting to notice his opinion in the case of *Natal Bank v. Rood*, on appeal from the Supreme Court of the Transvaal, as reported 1910, A.C. 570. Here an elaborate discussion of Roman-Dutch law is given in regard to mutual wills; conjugal community of goods; Boer customs; and the rule of succession generally in the Transvaal.

In the House of Lords Lord Shaw has made his influence notably felt in its judicial pronouncements. Many of his opinions in judgments of the House upon English, Irish, or Scottish appeals could be cited as remarkable, couched as they always are in plain, persuasive language. Indeed, his few dissents sometimes leave one in doubt as to whether they may not contain the true solution of the question in controversy. Many incline to agree, for instance, with the Notes in the *Law Quarterly Review* of July 1917 on the judgment of the Lords in *Rex v. Halliday*, 1917, A.C. 260, over the prosecution of the alien, Zadig, in claiming this distinction for his dissent in that case. It constitutes a reasoned defence of British constitutional right in respect of the liberty of the subject and of naturalised citizens in particular against subversion by the Crown, or the Government in its name, by mere implication from legislative measures, emergency or otherwise.

The sphere of Lord Shaw's activities outside his immediate judicial

duties has been wide. His services have been frequently sought by the Government in Royal Commissions and Parliamentary Committees of Inquiry, and notably as Chairman of one in connection with the Dublin riots in 1914, of a Scottish Committee in 1917 upon the State Purchase of the Liquor Trade, and of the Commission in 1919 over the Wage Conditions of Dock Labour in the United Kingdom. In a private capacity he rendered valuable assistance in the formation of the League of Nations Unions. He attended the Conference in Paris of the various National Unions promoting the Covenant. He was the chief representative of the Union representing the English League of Nations. Many of the drafts, taken during the sittings of the Conference by M. Bourgeois to M. Clemenceau, were settled by him and afterwards embodied substantially in the Covenant. Lord Shaw is also one of the trustees of the Carnegie Education Fund. His position as an advocate, as a judge, and as a publicist is reflected in the many honours he has received. He is LL.D. of the Universities of St. Andrews, 1902, of Aberdeen, 1906, and of Edinburgh, 1908. Since 1894 he has been a Deputy Lieutenant of the County of the City of Edinburgh, and he was made an honorary Bencher of the Middle Temple in 1910.

current numbers to non-subscribers also shows a gratifying increase. New items in the accounts are the amounts from the sale of reprints of separate articles, of some spare copies of Acts and Ordinances of different parts of the Empire (£23), and from advertisements which were secured for one number of the *Journal*. It is hoped that the last may be a growing source of income, though it is appreciated that financial conditions may operate against this expectation. On the other hand, amounts received from arrears of subscriptions was smaller than in 1919, when a large amount was overdue. The Honourable Societies of Gray's Inn, Lincoln's Inn, and the Middle Temple, the Law Society, and the Royal Colonial Institute continued their grants, without which the work of the Society would be seriously hampered. The Rt. Hon. Sir Josiah Symon doubled his subscription in appreciation of the Society's work. It is to be hoped that others may be willing voluntarily thus to add to their subscriptions, as the Society has not followed the usual practice of increasing the subscription. A number of subscribers have given bankers' orders, and that assurance of their continued support is much appreciated as well as the saving of expense and work.

In spite of the further increase in the cost of printing, the review of legislation was larger by twenty-five per cent., and it was possible to extend the size of the *Journal* by one hundred pages. The whole of this material was provided by the voluntary co-operation of a large number of contributors, to whom acknowledgment is made in Appendix II. Sir Alfred Hopkinson's article in the January number on the subject of adoption was followed by the appointment by the Home Secretary of a Committee composed in accordance with his suggestion and with the terms of reference proposed in the article. The Society, with the assistance of various correspondents, has been able to collaborate in the work of the Committee, as it had done in supplying material for the Workmen's Compensation Committee under the chairmanship of Mr. Holman Gregory, K.C., M.P. Assistance has been rendered to other Government Departments both at home and overseas by giving information upon subjects requiring a comparison of the laws of different countries. The Committee are willing to extend the activities of the Society in this direction, as they are satisfied that overlapping and inefficiency would be avoided by the development of a central co-ordinating organisation to act as a means of communication between different bodies and individuals. In this connection they are glad to have been of assistance in some of the legal work of the International Labour Office, of which details do not come within the year under review.

The increasing appreciation of the value of knowledge of methods adopted by other parts of the Empire in dealing with the problems of the day has led to a growing recognition of the utility of the annual summary of legislation, especially in the State Libraries of the United States, where law making is based upon collated information. The Committee are glad to note the extent to which contributors to the review whose names are set forth in Appendix II continue their assistance and so maintain the continuity and uniformity of treatment.

The Committee regret to record the loss from the Council, through death, of the Rt. Hon. Sir Samuel Griffith (formerly Chief Justice of the High Court of Australia), Sir Thomas Raleigh, and the Rt. Hon. Sir Thomas Vesey Strong. They welcome Colonel the Hon. Sir James Allen, as representing New Zealand in the place of his predecessor and the

Hon. Sir Edgar Bowring. The Rt. Hon. Marquess Curzon has also become an *ex-officio* member of the Council. The Committee have secured the assistance of Mr. F. N. Keen and Mr. H. F. Manisty, K.C., as members of the Executive Committee as well as of the Council. Although the death of Sir John Macdonell did not fall within the year under review, they cannot allow to pass without mention the loss of one who from the foundation of the Society had done so much to establish its reputation and promote its objects. In particular his long association with the *Journal* is well known and appreciated by members of the Society.

Annexed to the report (Appendix III) is a list of the members. No doubt, being the first publication, it contains errors of which the Hon. Secretary will be glad to receive a note. It has been substantially lengthened during the past year, and has been revised up to May 31st, 1921, but the Committee look forward with confidence to the doubling of its length as the objects of the Society become more widely known and appreciated throughout the world.

C. P. ILBERT,

Chairman of the Executive Committee.

APPENDIX I.

RECEIPTS.

	<i>£</i>	<i>s.</i>	<i>d.</i>
Brought forward	284	17	3
Individual subscriptions	386	2	5
Government subscriptions	283	1	0
Sales of back numbers	112	12	0
Arrears of subscriptions collected in 1920	83	10	9
Grants:	<i>£</i>	<i>s.</i>	<i>d.</i>
Law Society	21	0	0
Lincoln's Inn	21	0	0
Middle Temple	21	0	0
Gray's Inn	10	10	0
Royal Colonial Institute	5	5	0
Rent—sub-let	78	15	0
Sales of Acts and Ordinances	29	5	0
Sales of current numbers	23	7	10
Advertisements	15	16	11
Reprints	14	0	0
Great Jurists per Mr. Murray	13	19	0
War Loan—Dividend	7	18	5
Miscellaneous Receipts	7	0	0
Donation—Rt. Hon. Sir Josiah Symon, K.C.	2	2	0
Subscriptions in advance	1	1	0
	55	7	7
	<u>1,362</u>	<u>16</u>	<u>2</u>

EXPENDITURE.

By Hazell, Watson & Viney, printing 3rd Ser. vol. i, Pt. 3	98	2	6
„ Hazell, Watson & Viney, printing 3rd Ser. vol. ii, Pt. 1	141	16	9
„ Hazell, Watson & Viney, printing 3rd Ser. vol. ii, Pt. 2	202	8	0
„ Hazell, Watson & Viney, printing 3rd Ser. vol. ii, Pt. 3	226	17	1
„ Art Reproduction Co., Portraits, 3rd Ser. vol. ii	21	13	6
„ J. Dickinson & Co., paper	70	11	8
„ Chas. Morgan & Co., paper for covers	19	0	0
„ Clerk, typing and translating	144	13	9
„ Chambers, rent, cleaning, etc.	80	12	0
„ Postage, petty cash	59	13	1
„ Stationery	6	14	8
„ Purchase of back numbers	9	0	0
„ Balance in hand	281	13	2
	<u>1,362</u>	<u>16</u>	<u>2</u>

APPENDIX II.

The thanks of the Committee are offered to the following :—

(a) Contributors to the *Journal* of the Society during the year 1920 : The Rt. Hon. Lord Ernle ; the Rt. Hon. Sir W. H. Dickinson, K.B.E. ; Sir Alfred Hopkinson, K.C. ; Sir Courtenay Ilbert, G.C.B. ; Sir Lynden Macassay, K.B.E. ; Sir Donald Macmaster, K.C., M.P. ; J. Arthur Barratt, Esq. ; Bertram B. Benas, Esq. ; Wyndham A. Bewes, Esq. ; O. E. Bodington, Esq. ; Mr. President Jethro Brown ; C. E. Buckland, Esq., C.I.E. ; C. J. Colombos, Esq. ; W. G. H. Cook, Esq. ; Professor J. E. G. de Montmorency ; H. V. Evatt, Esq. ; the Rev. R. B. Fellows ; J. W. Gordon, Esq., K.C. ; R. S. Gundry, Esq., C.B. ; H. Duncan Hall, Esq. ; A. J. Hannan, Esq. ; Professor Hearnshaw ; J. E. Hogg, Esq. ; J. R. Innes, Esq. ; M. V. Ramaswamy Iyer, Esq. ; F. N. Keen, Esq. ; Professor Berriedale Keith ; Professor Courtenay Kenny ; W. S. M. Knight, Esq. ; C. M. Knowles, Esq. ; Professor E. G. Lorenzen ; A. Holte Macpherson, Esq. ; E. L. Matthews, Esq., C.M.G. ; the Hon. H. Fletcher Moulton ; E. T. Nicolle, Esq. ; His Honour Judge Parry ; G. G. Phillimore, Esq. ; H. J. Randall, Esq. ; R. F. Roxburgh, Esq. ; Ahmed Safwat, Esq. ; H. M. Alderson Smith, Esq. ; A. D. Smith, Esq. ; Gilbert Stone, Esq. ; G. R. Stirling Taylor, Esq. ; Professor F. P. Walton ; E. A. Whittuck, Esq. ; W. Basil Worsfold, Esq.

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REVIEW OF LEGISLATION, 1919.

INTRODUCTION.

[Contributed by SIR COURTENAY ILBERT, G.C.B.]

The legislation summarised in this and the preceding number of the *Journal* is mainly that of 1919, but includes some 1918 legislation which could not be dealt with in last year's *Journal*, and some Acts of 1920. Our annual reviews of legislation should be read as illustrative supplements of Lord Bryce's great book on *Modern Democracies*. They illustrate in detail the legislation of which he has described the general tendencies and characteristics. It is democratic legislation, for, after the collapse of the old European monarchies, the Governments of all parts of the civilised world are practically democratic, whatever may now be the precise meaning which should be attached to a word borrowed from the political terminology of ancient Greece.

The position of the Legislature at Westminster in 1919 is well described by Mr. Hugh Godley :

"The Parliamentary Session of 1919 was," he says, "the first Session of the new Parliament elected, on a widely extended franchise, in the previous December. It was also the first new Session since the Armistice of the previous November, and Parliament found itself immediately confronted with the task of dealing with the innumerable problems, international, social, and economic, which the war left in its wake. The Session lasted from February 4 to December 23, and there were passed in it no fewer than 102 Public General Acts, many of them of considerable length and importance."

The task of legislation was facilitated, partly by amendments of parliamentary procedure, which extended the system of grand committees and strengthened the power of the chair, but still more by the composition of the House of Commons. At the General Election the opposition to the Coalition Government had been practically wiped out. Consequently "the Government was able, in general, to command the support of an overwhelming and to a great extent docile majority, and was not confronted by anything in the nature of a formidable or united opposition."

The quantity of legislation produced in the Session was prodigious, but its quality left much to be desired. There have been many complaints of scamped and hasty work, and the statutes of the year have been found difficult to construe and difficult to work. They have already required much amendment, and it is probable that they will still require much more.

Mr. Godley begins his summary with two Acts for confirming and

giving effect to treaties concluded at Versailles, and then passes immediately on to the "momentous" Act for the Government of India, which received the Royal Assent on the last day of the Session, and of which he gives a lucid account. An important article on this Act by Mr. Feetham appeared in the January number of the *Journal*.

After Foreign Affairs and India comes a vast and heterogeneous mass of "domestic legislation," the contents of which it is very difficult to classify. Under the head of "New Ministries" will be found the "grandiose" scheme embodied in the Ministry of Transport Act—a scheme which met with much opposition in its passage through the two Houses, was much cut down, and the greater part of which was treated as experimental and made temporary in its duration. A somewhat similar fate befell the Electricity Supply Act, which was intended to revolutionise the system of supplying electricity throughout the country. The most drastic of its provisions were cut out by the House of Lords, and the measure is now admittedly of an interim character, and is, when the due time comes, to be supplemented by further legislation. Another very ambitious scheme was embodied in the Ministry of Health Act, an Act with admirable objects, but found difficult to work, and raising highly contentious questions. These are only specimens of the legislative experiments and innovations of which an account will be found in Mr. Godley's pages. The previous Session had not only given women the parliamentary vote, but admitted them to membership of the House of Commons, where they are now represented by Lady Astor. The Sex Disqualification (Removal) Act of 1919 continued the process of emancipation by removing all disqualifications affecting women as such. It is under this Act that women are now qualified for admission, not only to all public services and the magisterial bench, but to civil vocations such as that of barrister or solicitor, and are no longer exempt from liability to serve on juries. The Church of England Assembly (Powers) Act, which was introduced and piloted in the House of Lords by the Archbishops, and subsequently fathered in the House of Commons by the Government, provided a short cut for legislation affecting the established Church of England. The "measures" under that Act are not required to go through the same parliamentary stages as Acts of Parliament, and are not technically Acts of Parliament; but, when approved by both Houses of Parliament, obtain the Royal Assent in the same manner and have the same legal effect as if they were Acts of Parliament. Only one such "measure" has so far found its way into the immediate neighbourhood of Acts of Parliament, but it is just possible that a similar abbreviated process of legislation may in the future be adopted for some branches of secular matters.

In the Dominion Parliament of Canada, perhaps the most important Act of 1919 was the Civil Service Amendment Act, which placed all Civil Service appointments under the control of an independent Commission. The Commissioners' tenure of office is that of judges of a superior Court, and they are given power to classify and grade the Civil Service. The appointments are, as far as possible, to be made by competitive public examination. It will be interesting to see how this measure works, and how far it removes the evils attributed to political patronage. As is not surprising, it has already met with much opposition. The Manitoba Legislature seems to have made somewhat similar provisions for the Civil Service of its own province.

The Board of Commerce Act is, as Mr. Gisborne remarks, an interesting experiment. It set up a body of three Commissioners, to hold office for ten years, and to inquire into cases where it is suspected that prices are being unduly increased, that undue profit is being made, or that goods are being hoarded so as to increase unduly the cost of living. Another Statute, the Combines and Fair Prices Act, is, as its title indicates, another attempt to deal with difficult economic questions. In Canada temperance legislation has been left mainly to the provinces, but a Dominion Act of 1919 gave power to hold a plebiscite on the question whether the bringing of intoxicating liquor into a province may be prohibited, and several plebiscites have been held under this power.

The Provincial Legislation of Canada bore fewer traces than might have been expected of war and its aftermath.

The Provincial Legislatures continued their course of experimental legislation in forms many and diverse. British Columbia, following the lead of other western provinces and of their neighbours in the United States, made provision for direct legislation by the methods of initiative and referendum. The famous *Nolumus* of the Merton Parliament was too medieval and conservative for the Legislatures of British Columbia and Saskatchewan, and they changed the English law by giving legitimacy to children whose parents subsequently marry. Ontario had in 1918 given women the parliamentary franchise. In the following year it gave them the right to be elected members of the Legislative Assembly, and to be elected or appointed to municipal offices. New Brunswick also extended the parliamentary franchise to women. Quebec endeavoured to guard its municipalities against financial recklessness and extravagance, made some sweeping changes in the organisation of its civil courts, and passed a Minimum Wage Act for women. Manitoba set up a council or board for investigating and dealing with industrial disputes. The British Columbia Statutes grouped as "miscellaneous" range over a great variety of subjects. There was a Statute providing for the "control of mosquitoes and gophers," and Alberta qualified its poison law by allowing poisoned grain in reasonable quantities to be used for the destruction of gophers. What is a gopher? the simple Englishman might ask. If he has a tincture of Biblical knowledge, the word might suggest to him the wood of which Noah's ark was made, whatever that may have been. And the collocation with mosquitoes is misleading; for the gopher is not an insect, but apparently a burrowing rodent of the class to which prairie dogs belong. It is obviously a mischievous pest, well meriting the attention of a legislature for a rural community.

Under Section 128 of the Commonwealth of Australia Constitution Act the Commonwealth Parliament passed two "proposed laws" for the amendment of the Constitution, but neither of them obtained the approval of the electors required by that section. Each of them would have enlarged the legislative powers of the Commonwealth Parliament. One would have enlarged the power to legislate with respect to the nationalisation of monopolies; the other would have given power to legislate not merely with respect to "Trade and Commerce" with other countries and among the States, but with respect to Trade and Commerce generally.

The Commonwealth Electoral Act of 1919 applied the system of preferential voting to elections to the Senate, but the outcome of the

Act, according to Lord Bryce in his recent book (ii. 206), "gave scant pleasure to the advocates of Proportional Representation." It resulted in the election of seventeen members of the largest of the five parties in Australia with 860,000 votes, one member of another party (Labour and Socialist) with 820,000 votes, and no member of the two smallest parties (Farmers and Independent), which together aggregated 173,000 votes. The provisions of the Act and their working in practice evidently deserve careful study by those who are interested in the subject of Proportional Representation. It would seem that the system has failed to cure the defects alleged to mar the utility of the Australian Senate. Another important Constitutional Act of 1919 is the Referendum (Constitution Alteration) Act. The subject is complicated, and the provisions set out in this year's review of Australian legislation have to be studied with the help of previous reviews. There were several measures arising out of the war, such as the Moratorium Act, which provided for the gradual removal of the war restrictions imposed on payments due under mortgages and certain other agreements. The Nauru Island Agreement Act gave approval to an agreement of which much has been heard in this country.

The review of Queensland legislation includes some Acts of 1920. An Act of 1919 increased the payments to members of the Legislative Assembly, and to the Leader of the Opposition and the Chairman of Committees, both in the Legislative Assembly and the Legislative Council. The new rates prescribed by the Income Tax Act of 1920 deserve attention. So also do the provisions of 1919 and 1920 for supplying homes for workers and land for discharged soldiers, the amending Liquor Act with its arrangement for local option under a system of preferential voting, and the measures for fixing fair rents and for dealing with profiteering and combines. Among the War Measures of South Australia are measures giving power to provide discharged soldiers with land and homes. In the case of "large estates" as defined by an Act of 1919, land may be acquired compulsorily for these purposes. It was found, as time went on, that the exercise of these powers tended to the segregation of discharged soldiers, with undesirable results. Consequently the housing powers were extended to provision for civilians, with the view of hastening the absorption of ex-service men into the ordinary life of the country. Of the numerous legislative experiments made by South Australia in 1919 in dealing with social and economic problems, the Legislative Draftsman for that province gives us a very full and instructive account. The lovers of wild animals and birds will be interested in the Act which provides a sanctuary in Kangaroo Island, and in the Animals' and Birds' Protection Act which consolidates with amendments and extensions the previous statute law on that subject. Tasmania dropped the experimental provisions for Daylight Saving made under the Daylight Saving Act of 1916. She also increased her parliamentary salaries.

The legislation of Victoria was varied, experimental, and prolific. Among other things, she made further provision for discharged soldiers, appointed a Fair Profits Commission having extensive powers of control over the sale of necessary commodities, with a view to the restriction of undue "profit making," amended her licensing law, and consolidated with amendments her Public Health Acts. She also passed a temporary Railways Classification Board, regulated dairy produce, and aided

agricultural education. Western Australia concerned herself with agricultural vermin, and with the provision of land for settlement by discharged soldiers and others, consolidated her Forest Law with amendments, amended her law about children and about matrimonial causes, and regulated the prices of foodstuffs and necessary commodities. This is not an exhaustive enumeration of her Acts.

There are some interesting Papuan Ordinances.

In New Zealand the short session of 1919 was marked by the dissolution of the "National Government" and the resumption of the party system. Despite the shortness of the session there was a great deal of important legislation, all of which is so fully summarised by Mr. Christie, the Parliamentary Law Draftsman, that further notice of it is unnecessary here. Under one of the Acts women were made eligible to the Legislative Council as soon as the election system was applied to that Council. This took place on January 31, 1921.

An account is given of the Ordinances for Fiji and of the King's Regulations for the British Solomon Islands Protectorate.

Mr. E. L. Matthews gives us his usual full and instructive Review of the legislation passed in 1919 by the Parliament of the Union of South Africa, beginning with the Act for the administration of the country formerly known as German East Africa, and now as the South-West Protectorate. The Act is couched in very general terms.

The reviews received for the July number of the *Journal* begin with a review of British Indian legislation in 1919. For these we are indebted to Mr. A. P. Muddiman, Secretary to the Government of India in the Legislative Department, and now President of the new Indian Council of State. Of the twenty-seven Acts passed by the Indian Legislative Council in the year under review, that which attracted most attention was the measure popularly known as the Rowlatt Act, and having as its technical short title The Anarchical and Revolutionary Crimes Act, 1919. Mr. Muddiman gives a full summary of its provisions. No. 27 on the list was an Indemnity Act arising out of the Punjab disorders in the spring of 1919. An Excess Profits Act and an Act giving power to revoke certificates of naturalisation granted in India recall memories of English controversies.

Among the provincial Acts are some of more than local interest. Bombay passed a temporary measure about speculation in cotton contracts. Both in Bengal and in Bihar and Orissa there were measures dealing with primary education, and giving powers to make orders under which education would be compulsory. The compulsory provisions of the Bengal measure apply only to boys, those of the Bihar and Orissa measure to both sexes. Of the seven temporary "Ordinances" made under Section 71 of the Government of India Act, 1915, six arose out of the disorders which broke out, especially in the Punjab, in the spring of that year.

The review of British Indian legislation is followed by twenty-two pages and more which are devoted to British Crown Colonies and Protectorates. The groups dealt with are the Eastern colonies—that is to say, Ceylon, Mauritius, the Straits Settlements, and the Federated Malay States; West Africa; East Africa; the West Indies; and the Mediterranean Colonies, which consist of Cyprus and Gibraltar. These pages illustrate the multiplicity of topics with which the Legislatures of these widely scattered regions are concerned, and the variety

of conditions under which British administration is exercised. There are many traces of the war and its aftermath; such as the exclusion of former enemy aliens from British territories and their industries. A Seditious Publications Prohibition Act for the Bahamas is the model Act sent out by the Colonial Office, and is based on the law of the Straits Settlements.

The reviews of foreign legislation are necessarily selective. Local contributors tell us about the legislation of the Argentine Republic, Chile, and Cuba. Professor Wang King Ky has a good deal to say about the legislation of China. Mr. Bodington summarises the legislation of France, which in 1919 was very miscellaneous. One law dealt with illicit commissions, another required every large town to make out a plan for its embellishment, and a third introduced registers of commerce for the several districts of the tribunals of commerce. The laws of marriage and divorce were amended. An eight-hours' day was established for all industrial commercial establishments of whatsoever nature, public or private, secular or religious. For parliamentary elections a law of July established the *Scrutin de liste*, with a restricted scheme of proportional representation. A law of September gave the State wider control over mining property. The Italian legislation of 1919 was remarkable for the number and variety of decrees—viceregal, regal, and ministerial. Parliamentary legislation appears to have been scanty. Mr. Masujima, in reporting the legislation of Japan for 1917, gives a useful description of the Japanese legislative machinery and its working. The International Intermediary Institute supplies a report of the laws passed by the Legislature of the Netherlands in 1919, and also a very full account of legislation in the Dutch East Indies during the same period.

A large amount of space, some thirteen pages, is devoted to an account of recent legislation in the United States. It consists of extracts from a report of the Committee of the American Bar Association on noteworthy changes of the statute law, and deserves careful study. Those who are concerned with the preparation of statutes will be interested in the steps which have been taken by the Legislature at Washington, and also by the Legislatures of Oregon and Indiana, to improve the system of legislative drafting.

From the United States the Review passes to North Borneo, and Mr. Macaskie gives us a very full and instructive account of the law and legislation of that State under the Charter of 1881. This concludes a bill of fare which the most avid student of comparative legislation ought to find satisfactory and nutritious.

The task imposed upon the contributors to our review of legislation is to trace clearly, impartially, and dispassionately the course of legislation in particular States during particular periods. It is a task of great difficulty, and we are deeply indebted to our contributors for the labour and skill which they have bestowed upon it. They are supplying the raw materials, the indispensable materials, for a branch of political science. "It is Facts that are needed," says Lord Bryce, "facts, facts, facts." Yes, but, as no one knows better than he, facts may be so selected, marshalled, and presented as to support any given thesis. Such selection and presentation is a form of advocacy, and is sometimes called propaganda. And it is the mode of presentation which is most attractive to the reading public. A mere statement of facts, however accurate and useful, is apt to be pronounced unreadable. This, then, is one of the problems

which our contributors have to solve: how to state their facts without incurring a charge of bias, and, on the other hand, how to present them without deterring readers by the aridity and technicality of their description. That is one of the difficulties which the Society and the contributors to its *Journal* have to encounter. There are others. In dealing with legislation in this part of the *Journal* we are concerned with results, not with processes. It must be left to others, or to the writers of articles in other parts of the *Journal*, to trace the antecedents of any particular piece of legislation by the debates and discussions, within the Legislature or outside it, which preceded its passing, and to analyse and estimate the play of forces and interests which led up to and underlay these debates and discussions. And then, at a later stage, it will be equally important to trace and describe the results of a particular enactment, and to show how far, if at all, and in what mode it has been worked in practice. Except for the purpose of explaining the need for subsequent legislation, such an account of results would be beyond the scope of our annual review of legislation, but would be well within the scope of our Society and its *Journal*. Indeed it is among the subjects to which the Society, through its *Journal*, might most appropriately devote its attention. In the statute books of the world there is a vast amount of dead wood. Here is the law, one often says in reading them; has it ever worked in the past, and if so, how? and how, if at all, is it working now? The reader will often find his questions very difficult to answer, but may, it is hoped, sometimes find answers to them supplied by the pages of our *Journal*.

The late editor of our *Journal* took as its motto an apposite quotation from Aristotle's *Politics*. Another motto might, perhaps, have been suggested by some familiar lines of Juvenal. Not quite the whole field of man's activities, but a large and increasing part of it, constitutes the *farrago* of the *Journal*. Modern legislation touches human life at every point. Our *Journal* addresses itself, not merely to the professional lawyer, but to all citizens, whatever their class, occupation, or profession, who are affected by, and ought to be interested in, current legislation. Labour, trade, industry, transport, education, public health, the care of the young and of the old—these are among the innumerable subjects with which legislation is concerned. The study of legislation, especially of comparative legislation, is of growing importance. Every country watches with interest and anxiety the legislative experiments of other countries, and tries to profit by their examples and their warnings. The difficulties of our editor lie, not in the dearth, but in the embarrassing wealth, of his possible materials. In his selection of topics, and in determining the method of treating them, his paramount object will doubtless be to meet those practical needs which it is the effort of our *Journal* to supply. Our future rests with him.

We have recently had to deplore the grievous loss which the Society has sustained in the death of Sir John Macdonell. We shall never cease to deplore it, or to cherish his memory. But we have been fortunate in the successor who has undertaken to carry on his work. Under Sir John Macdonell our *Journal* attained a high level of excellence and a world-wide reputation. There is every reason to believe that its reputation and utility will be maintained and enhanced under the guidance of Sir Lynden Macassey.

BRITISH EMPIRE.

I. BRITISH ISLES.

I. UNITED KINGDOM.

[Contributed by the HON. HUGH GODLEY, *Assistant Parliamentary Counsel.*]

THE Parliamentary Session of 1919 was the first Session of the new Parliament elected, on a widely extended franchise, in the previous December. It was also the first new session since the Armistice of the previous November, and Parliament found itself immediately confronted with the task of dealing with the innumerable problems, international, social, and economic, which the war left in its wake. The session lasted from February 4 to December 23, and there were passed in it no fewer than 102 Public General Acts, many of them of considerable length and importance. The actual number of statutes passed was, it is true, exceeded in the long session of 1914-16, during which 105 Acts received the Royal Assent, but the Acts passed in that session were for the most part brief and intended to deal with special emergencies, and for an equivalent in legislative output to that of the 1919 session one has to go back at least fifty years, to a time when parliamentary methods and the range of subjects to which Parliament devoted its attention were widely different from the present.

The process of legislation was considerably facilitated, as compared with the same process in pre-war sessions by various reforms in parliamentary procedure which were made at the commencement of the session, consisting principally of an extension of the system of grand committees and strengthening the powers of the chair to deal with obstructive tactics ; but more especially by the nature of the composition of the House of Commons. The general election of 1918 had resulted in the return of 485 supporters of Mr. Lloyd George's Coalition Government and 222 non-Coalition Members. Of the non-Coalition Members 48 Unionists could be reckoned in general as supporters of the Government. 73 Sinn Fein Members abstained altogether from attendance at Westminster. The non-Coalition Liberals numbered a mere 28, and practically all their leaders, including Mr. Asquith, had failed to secure election. Of the 59 Labour Members many were entirely new to parliamentary work. By reason of these facts, the Government was able, in general, to command the support of an overwhelming and to a great extent docile majority, and were not confronted by anything in the nature of a formidable or united opposition.

Foreign Affairs.—Turning to the actual work of Parliament during the session, the most memorable Acts passed were, perhaps, the Treaty

of Peace Act (c. 33) and the Anglo-French Treaty (Defence of France) Act (c. 34), which both received the Royal Assent on the same day. The first of these Acts, after reciting the signature of the Treaty of Peace at Versailles on June 28, 1919, conferred on His Majesty power to "make such appointments, establish such offices, make such Orders in Council, and do such things as appear to him to be necessary for carrying out the said Treaty, and for giving effect to any of the provisions of the said Treaty." The Orders in Council are required to be laid before Parliament, with a right for either House to petition against them, and due provision is made for meeting any necessary expenses out of public funds.

The Anglo-French Treaty Act gives the approval of Parliament to the Treaty between Great Britain and France under which Great Britain agrees—"to come immediately to the assistance of France in the event of any unprovoked act of aggression against her being made by Germany."

Government of India.—Before proceeding to deal with the important measures passed during the session affecting internal matters, it may be in place to refer to the momentous Act (c. 101) relating to the Government of India.¹ The Bill for this Act, which was based on the Report of the "Montagu-Chelmsford" Committee (Cd. 9109), was passed after prolonged and detailed examination by a joint committee of both Houses presided over by Lord Selborne, before which witnesses of all shades of opinion, both from this country and from India, were examined.

The purposes of the Act are expressed as follows in its preamble :

WHEREAS it is the declared policy of Parliament to provide for the increasing association of Indians in every branch of Indian administration, and for the gradual development of self-governing institutions, with a view to the progressive realisation of responsible government in British India as an integral part of the empire :

AND WHEREAS progress in giving effect to this policy can only be achieved by successive stages, and it is expedient that substantial steps in this direction should now be taken :

AND WHEREAS the time and manner of each advance can be determined only by Parliament, upon whom responsibility lies for the welfare and advancement of the Indian peoples :

AND WHEREAS the action of Parliament in such matters must be guided by the co-operation received from those on whom new opportunities of service will be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility :

AND WHEREAS concurrently with the gradual development of self-governing institutions in the Provinces of India it is expedient to give to those Provinces in provincial matters the largest measure of independence of the Government of India which is compatible with the due discharge by the latter of its own responsibilities :

BE IT THEREFORE ENACTED, etc. . . .

The dominating idea of the Act being a "gradual" development of representative government, it was necessary that it should be drawn in very broad outline, and many matters of vital importance (such as the composition of the Indian electorates and the subjects to be transferred to provincial control) are left to be regulated by rules made by the Governor-General with the sanction of the Secretary of State and subject to the approval of Parliament.

¹ See also article by Mr. R. Feetham, *Jour. Comp. Leg.*, 3rd series, vol. iii., p. 101.

It is not possible in a review of this length to give a detailed account of this statute, which presents many entirely novel features both in substance and in form. Briefly, it may be said that it deals in the main with the Government of the provinces in India, the powers of the central government in India, and the powers of the Secretary of State.

The United Provinces, the Punjab, Bihar and Orissa, the Central Provinces and Assam, are elevated to the rank of "Governor's provinces," and, except for certain purely formal matters, are given a status equivalent to that of the Presidencies of Calcutta, Madras, and Bombay. Certain subjects (to be defined by rules) are definitely classified as "provincial subjects," and of these subjects some (known as "transferred subjects") are transferred from the administration of the Governor in Council to that of the Governor "acting with" Ministers appointed under the Act. In each of the presidencies and provinces the much-debated form of government known as "dyarchy" is established; *i.e.* whilst subjects not transferred continue to be administered by the Governor in Council, transferred subjects are administered by the Governor acting with Ministers, who must be elected members of the local legislatures. The Governor has power to make rules and orders for regulating the relations between his executive council and his Ministers for the purpose of the transaction of the business of local government. Due provision is made for conferring upon the provinces such a degree of financial autonomy as is necessary for the execution of their duties.

The legislative council of each of the provinces consists of the members of the executive council and of a number of members fixed by the Act for each province, of whom it is provided that not more than 20 per cent. may be official members and at least 70 per cent. are to be elected members. The first president of the council is to be appointed by the Governor, but after the expiration of four years from the first meeting of the council the president is to be a member of the council elected by the council and approved by the Governor. In view of the preponderance of elected members power is reserved to the Governor, in the case of Bills relating to reserved subjects, to certify that the passage of the Bill is "essential to the discharge of his responsibility for the subject," and thereupon the Bill is deemed to have passed "notwithstanding the council have not assented thereto."

As respects the central government in India, the Act provides in the place of the present Legislative Council of the Governor-General for the establishment of an Indian legislature, consisting of the Governor-General and two chambers; namely, the Council of State and the Legislative Assembly. The Council of State is to consist of not more than 60 nominated and elected members of whom not more than 20 are to be official members. The Legislative Assembly is to consist of 140 members, including 40 non-elected members of whom 26 are to be officials. The Governor-General is not a member of the Legislative Assembly, but has the right of addressing it, and the power to require the attendance of its members for that purpose. The course of business in both chambers of the Indian Legislature is to be prescribed by rules under the principal Act, but the intention is that these rules should relate only to matters of constitutional importance, and both chambers of the Indian Legislature are given power, subject to those rules, to regulate their own procedure by Standing Orders. Provision is made for enabling the Governor-General to secure the passage of any Bill which he certifies "is essential

for the safety, tranquillity, or interests of British India or any part thereof."

The provisions of the Act as to the powers of the Secretary of State make the necessary provision for enabling him, subject to the assent of Parliament, to regulate and restrict the exercise of the powers of superintendence, direction, and control vested in himself by the existing statutes "in such manner as may appear necessary or expedient in order to give effect to the purposes of this Act." The payment of the salaries of the Secretary of State and his under-secretaries, and the other expenses of his department, are transferred from the revenue of India to the British Exchequer, and various alterations are made with respect to the size, composition, functions, and terms of office of the members of the Council of India. Power is conferred on His Majesty to appoint a High Commissioner for India in the United Kingdom, and to make provision as to his powers, duties, and conditions of employment.

In order to lay additional emphasis on the intention of the Act as merely an instalment towards the establishment of complete self-government, provision is made for the appointment, ten years after the passing of the Act, of a Royal Commission for the purpose "of inquiring into the working of the system of government, the growth of education, and the development of representative institutions in British India and matters connected therewith," and the Commission is required to report "as to whether and to what extent it is desirable to establish the principle of responsible government, or to extend, modify, or restrict the degree of responsible government then existing therein, including the question whether the establishment of second chambers of the local legislature is or is not desirable."

Turning now to measures of internal application, there were passed during the session Acts so numerous and diverse that it is difficult to classify them intelligibly. It is proposed to deal with them under the following heads: (1) Measures dealing with matters of such urgency—public health, transport, and agricultural reform—as to require the creation of new ministries or departments; (2) Finance; (3) Industrial measures; (4) Other measures of primary importance; (5) Transitory measures; (6) Measures of minor importance; (7) Measures relating exclusively to Scotland and Ireland.

New Ministries.—The Ministry of Transport Act (c. 50), provided for the establishment of a new department, under a Minister of Transport, "for the purpose of improving the means of, and the facilities for, locomotion and transport." To this Minister are transferred all the powers and duties of any government department in relation to (a) railways; (b) light railways; (c) tramways; (d) canals, waterways, and inland navigations; (e) roads, bridges, and ferries and vehicles, and traffic thereon; (f) harbours, docks, and piers (except Admiralty ports).

The Bill for the Act as originally introduced contained a grandiose and far-reaching scheme for the central control of all internal means of transport. These proposals, however, encountered considerable opposition in both Houses of Parliament from the opponents of nationalisation; and, as finally passed, the Act merely provides that—"with a view to affording time for the consideration and formulation of the policy to be pursued as to the future position of undertakings to which the Act applies" for a period of two years after the passing of the Act:

(a) The Minister shall continue to exercise in respect of railways the same powers of control as were exercised during the war by the Railway Executive Committee;

(b) The Minister may, subject to important safeguards and exceptions, "take possession of and control the working of" railways, light railways, tramways, canals, harbours, etc., whether or not these undertakings were subject to control during the war.

This part of the Act is, as will be observed, frankly experimental, and, in the light of the experience gained during the two years for which it is in force, further legislation may be expected.

The Minister is empowered to establish and, either by himself or through any other person, to work transport services by land or water, subject to Treasury approval so far as finance is concerned, and subject, in the case of any service the estimate for which exceeds £500,000, to the approval of Parliament. It is also provided that where any such service could properly be undertaken by the owners of any existing undertaking, the Minister shall not himself establish the service without first giving to such owners an opportunity of establishing the service. The Minister must not, "unless Parliament otherwise determines," commence any new works after the expiration of two years.

Any alteration in rates, fares, tolls, dues, or other charges which the Minister proposes to make has to be referred to a Rates Advisory Committee appointed under the Act, consisting of a chairman, nominated by the Lord Chancellor, two representatives of trade and agricultural interests, nominated by the Board of Trade, one representative of transport interests, nominated by the Minister, and one representative of labour, nominated by the Ministry of Labour.

The Act also contains important subsidiary provisions as to the pooling of privately owned railway wagons, the making of advances to companies and private individuals for purposes connected with transport, and the establishment of various advisory committees, including, in particular, a Roads Advisory Committee.

The Electricity Supply Act (c. 100), marks a new stage in the supply of electricity throughout the country. It provides for the establishment of a central authority called the Electricity Commissioners, through whom the Board of Trade¹ may exercise any of their existing powers, under statutes relating to the supply of electricity, and who have power to conduct experiments or trials for the improvement of the methods of electric supply and kindred matters.

The Commissioners have power to form throughout the United Kingdom electricity districts administered by joint electricity authorities. The districts are areas in which it is considered desirable to have centralised control in the interests of economy, efficiency, and convenience. The joint electricity authorities are to be representative of authorised undertakers, county councils, local authorities, large consumers, and other interests within the district, and may exercise all or any of the powers of the authorised undertakers therein, provided that no undertaking may be transferred to the electricity authority without the consent of the owners thereof. The procedure for the establishment of these electricity authorities and districts is by the submission of a scheme prepared locally by the interest concerned and confirmed, after a local

¹ The powers of the Board of Trade in relation to electricity have since the passing of this Act been transferred to the Minister of Transport.

inquiry, by the Commissioners, or, in default, by a scheme formulated by the Commissioners themselves.

An electricity authority is under an obligation to secure and provide a cheap and abundant supply of electricity for its district, and may acquire by agreement, though not compulsorily, any undertaking from authorised undertakers carrying on business within the district.

The Act is admittedly of an interim character. As the Bill for it left the House of Commons it contained drastic proposals relating to compulsory acquisition of undertakings; but these were excised by the House of Lords, with the consent of the Government, on the understanding that another Bill would shortly be introduced restoring these clauses, in order that they might be debated when there was more time for adequate discussion.

The Ministry of Health Act (c. 21) provides for the establishment of a Ministry of Health "for the purpose of promoting the health of the people through England and Wales." The duty of the Minister is expressed to be—

in the exercise of any powers and duties conferred upon him, to take all such steps as may be desirable to secure the preparation, effective carrying out and co-ordination of measures conducive to the health of the people, including measures for the prevention and cure of diseases, the avoidance of fraud in connection with alleged remedies therefor, the treatment of physical and mental defects, the treatment and care of the blind, the initiation and direction of research, the collection, preparation, publication and dissemination of information and statistics relating thereto, and the training of persons for health services.

With a view to carrying out these ambitious purposes, there are transferred to the Minister (a) all the powers and duties of the Local Government Board (hitherto the principal central authority connected with the administration of the enactments relating to public health); (b) all the powers and duties of the National Health Insurance Commissioners; (c) various powers of the Board of Education with respect to the health of expectant mothers and infant children; (d) the powers of the Privy Council under the Midwives Act; (e) the powers of the Home Secretary as to infant life protection under the Children Act, 1908. There is also power by Order in Council to transfer to the Minister (i) all powers of the Minister of Pensions with respect to the health of disabled officers and men after they have left the service; (ii) the powers and duties of the Secretary of State in relation to lunacy and mental deficiency; (iii) any other powers and duties in England and Wales of any other Government department which appear to relate to matters affecting or incidental to the health of the people.

On the other hand, the Act confers power on His Majesty in Council to transfer from the Minister to other Government departments any of the powers transferred to the Minister under the Act which appear to His Majesty not to relate to matters affecting or incidental to the health of the people.¹

By the Scottish Board of Health Act (c. 20), passed concurrently, corresponding powers are conferred in Scotland on a Board of Health,

¹ No action has at present been taken under this power, and various matters quite unconnected with the health of the people (such as registration of electors) are still exercised by the Minister of Health as the successor to the Local Government Board.

of which the Secretary for Scotland is the chairman and a specially appointed "Under-Secretary for Health" vice-chairman.

The Ministry of Agriculture and Fisheries Act (c. 91) provides for the elevation of the old Board of Agriculture and Fisheries to the status of a Ministry. The Act also provides:

(a) For the establishment of central agricultural councils and agricultural advisory committees for England and Wales, for the purpose of discussing matters of public interest relating to agriculture and other rural interests, and advising the Minister with respect to agricultural matters and questions submitted to them.

(b) For the establishment of agricultural committees in every county, to exercise on behalf of the Minister the powers of control possessed by him under the Corn Production Act, 1917, the Land Drainage Act, 1918, and the Small Holdings Colonies Acts, 1916 and 1918. These county agricultural committees will also exercise powers hitherto exercised by local authorities under the Acts relating to Small Holdings and Allotments, in addition to any other powers which may be hereinafter conferred upon them by Parliament.

The Forestry Act (c. 58) provides for the establishment of a Central Forestry Commission, charged with the general duty of "promoting the development of afforestation and the production of timber in the United Kingdom." There are transferred to the Commission the powers and duties of the Boards of Agriculture for England and Scotland and the Department of Agriculture and Technical Instruction for Ireland in relation to forestry, and extensive powers are conferred upon the Commission of acquiring forests and land for afforestation, besides power to undertake the management or supervision of, or to give assistance or advice in connection with, privately owned forests. The Commission is empowered to carry on or aid in carrying on woodland industries, to collect statistics, and promote instruction and training in forestry, and to make inquiries, experiments, and research for the purpose of promoting forestry and the teaching of forestry.

In connection with the establishing of new ministries, it is worth noting that the Re-election of Ministers Act (c. 2) contained a provision giving statutory recognition for the first time to the post of "Minister without portfolio," or (as the Act expresses it) "a member of His Majesty's Privy Council appointed to be a Minister of the Crown at a salary, without any other office being assigned to him."

Finance.—The financial proposals for the year (Finance Act, c. 32) included various provisions of importance. Income-tax was maintained at the rate of 6s., but provision was made for extending the relief previously granted in respect of married persons and children, and a complete exemption was conferred in respect of wound and disability pensions and certain war gratuities. The Excess Profits Duty, which at the date of its first imposition was propounded as a purely war measure, was nevertheless continued for a further year, but at the rate of 40 per cent. instead of 80 per cent. Considerable increases were made in the customs and excise duties on beer and spirits. The death duties were also substantially increased, the rates of estate duty being revised so as to vary from 1 per cent. on estates under £500 to 40 per cent. on estates exceeding two million pounds. But perhaps the most interesting feature of the 1919 Budget was the introduction for the first time, on a small scale it is true, of the principle of "Imperial preference." S. 8 of

the Act provides that, "with a view to conferring a preference in the case of Empire products," the Customs duties on certain goods are to be charged at preferential rates where the goods are shown to have been consigned from, and grown, produced, or manufactured in, the British Empire, which term is defined so as to include protectorates, and (if so provided by Order in Council) "mandatory" territories. The preferential rates are set out in the Second Schedule to the Act, and vary from half of the full rate in the case of certain descriptions of wine to five-sixths of the full rate in the case of tea, coffee, sugar, tobacco, and certain other articles.

Industrial Measures.—The following Acts are attributable to some of the acute industrial controversies which arose on the termination of the war.

The Industrial Courts Act¹ (c. 69) provides for the establishment of an Industrial Court consisting of persons appointed by the Minister of Labour, of whom some are to be independent persons and others are to represent employers and workmen. Either party to a trade dispute is empowered to report the dispute to the Minister, who is then required to take steps for promoting a settlement, and may refer the dispute for settlement to the Industrial Court, or to the arbitration of a person or persons appointed by him, or of a Board nominated by the parties to the dispute, with an independent Chairman nominated by the Minister. No power is taken to enforce the awards of the Industrial Court, which will therefore have an effect which will be only morally binding.

The Act also provides for establishing courts of inquiry to which the Minister is empowered to refer any matters appearing to him to be connected with or relevant to a trade dispute, whether actual or apprehended, and whether or not the dispute is reported to him under the earlier provisions of the Act. A Court of Inquiry is to consist of a chairman and such other persons as the Minister may appoint, or may, if the Minister thinks fit, consist of one person appointed by the Minister.

The Coal Mines Act (c. 48) substituted a seven-hour day for underground workers in coal mines for the existing eight-hour day, with powers by resolution of both Houses to substitute a six-hour day if the economic position admits of such a step.

The Restoration of Pre-War Practices Act (c. 42) was passed in fulfilment of a pledge given during the war to representatives of Trade Unions. The Munitions of War Acts had provided for the temporary suspension of various trade customs relating to such matters as overtime, Sunday time, night duty, and the employment of women and boys and other less skilled persons to do work which would bring it outside Trade Union rules. It was always understood that the suspension of trade customs was for the war only, and the present Act requires their restoration within a period of two months, the restoration to be maintained for a period of at least one year.

The decreased value of money and increased cost of living led to measures providing for (1) an increase from £160 to £250 of the income limit for persons coming within the scheme of compulsory National Health Insurance (c. 36); (2) increases in the rate of Unemployment Benefit (c. 77), and Workmen's Compensation (c. 83); and (3) the raising of the rate of Old Age Pensions (c. 102) to practically double their

¹ See also article by Sir Lynden Macassey, *Jour. Comp. Leg.*, 3rd series, vol. ii., p. 72.

previous rate. An Act was also passed (c. 51) regulating the system of Check-weighing in various industries.

Other Measures of Primary Importance.—The Housing, Town Planning, etc., Act (c. 35) and the Housing (Additional Powers) Act (c. 99) may conveniently be considered together. The former deals with the Housing of the Working-classes, Town Planning, and the Acquisition of Small Dwellings. The duty is imposed upon every housing authority (*i.e.* generally speaking the local sanitary authorities, and in London the County Council) of preparing and carrying out a housing scheme. Every scheme must specify the approximate number and the nature of the houses to be provided, the approximate quantity of land to be acquired, the average number of houses to the acre, and the time within which the scheme is to be carried out. The scheme must be approved by the Minister of Health with or without modification, and the authority must carry out the scheme so approved within a period fixed by the Minister. If the authority fail to fulfil their obligations under the Act, or in any other case where the Minister thinks such a course is desirable, he may transfer the powers of the authority to the County Council, or he may himself prepare and carry out a scheme where either the local authority or the County Council has made default, charging the cost to the defaulting authority. The Minister may also require local authorities to exercise their powers under the former Act with respect to unhealthy areas or unhealthy dwellings. Section 7 provides (subject to proper safeguards) that actual or estimated losses incurred by a local authority or County Council in carrying out an approved scheme are to be made good out of the Exchequer.

Provision is made for the assistance by local authorities of societies, trusts, or other persons who construct or who are interested in the erection, management, or improvement of housing accommodation for the working-classes, and such assistance may include grants or loans to a public utility society, or a guarantee for the payment of interest on money borrowed by such a society, contributions to the expense of housing schemes submitted to the Minister by a society or housing trust, and approved by him, and loans to societies or private persons.

This Act also deals with a variety of matters incidental to the housing of the working-classes, notably the relaxation of building by-laws in relation to houses comprised in a scheme approved by the Minister under the Act, and the power of a County Council to authorise the conversion of a house into separate tenements, where such conversion would otherwise be unlawful owing to a restrictive covenant affecting the house.

Part II. of the Act deals with Town Planning. By s. 54 of the Housing, Town Planning, etc., Act, 1909, a local authority was empowered, with the consent of the Local Government Board (now the Minister of Health), to prepare a town-planning scheme. The consent of the Minister of Health is now no longer necessary, except in cases where the resolution of the local authority affects land outside their area, or involves joint action by two or more authorities. By s. 46 the council of every borough or other urban district with a population of twenty thousand is *required*, within three years after January 1923, to prepare a scheme and submit it to the Minister. The Minister may require *any* local authority, after holding a local inquiry, to prepare and submit such a scheme, and on default being made by the authority, may act himself or in certain cases empower the County Council to act.

Part III. amends the Small Dwellings Act, 1899, by removing or modifying the limitations imposed by that Act, on the powers of local authorities to advance money to residents for the acquisition of their dwellings.

The Housing (Additional Powers) Act (c. 99) was passed for two main purposes: first, to allow the Government to give subsidies to private persons and associations for the building of houses; and, secondly, to enable local authorities to issue short-dated bonds on the security of the rates, in order to finance their building operations.

Other provisions comprise a prohibition on the demolition of dwelling-houses without the written permission of the local authority, and the restriction of "luxury-building," *i.e.* "the employment of labour or material in the construction of any works or buildings which may delay within the area the provision of dwelling accommodation."

The Sex Disqualification (Removal) Act (c. 71) provides for the complete removal of all existing disqualifications affecting women as such. S. 1 of the Act provides that "A person shall not be disqualified by sex or marriage from the exercise of any public function, or from being appointed to or holding any civil or judicial office or post, or from entering or assuming or carrying on any civil profession or vocation, or for admission to any incorporated society (whether incorporated by Royal Charter or otherwise), and a person shall not be exempted by sex or marriage from the liability to serve as a juror." It appears from this that women are now qualified for admission not only to all public services and the magisterial bench, but also to civil vocations—such as that of barrister and solicitor—from which their sex has hitherto disqualified them. As respects the Civil Service, however, power is given to regulate the mode by which women are admitted to the service, and to reserve for men posts in the foreign and colonial services of the Crown for which women are clearly physically unfitted. As respects the service of women jurors, power is given to the judge in any case to exempt women from service, "by reason of the nature of the evidence to be given or the issue to be tried"; and also in special cases, on the application of the parties or any of them or at his own instance, to order that a jury shall be composed of men only or of women only.

The Welsh Church (Temporalities) Act (c. 65) disposed finally, so far as Parliament is concerned, of the vexed controversies arising from the disestablishment of the Church in Wales. The Act affecting this purpose, passed in 1914, had remained in abeyance throughout the war, and could not be brought into full operation without further legislation. The date of disestablishment was finally fixed as March 31, 1920, and the new Act makes various subsidiary provisions beneficial to the disestablished Church, including provision for a grant of a million pounds to the representative Church body.

The Church of England Assembly (Powers) Act (c. 76) was introduced and piloted in the House of Lords by the Archbishops, but was subsequently fathered in the Commons by the Government. It was the outcome of prolonged discussion in the Convocations, the Houses of Laymen, and the Representative Church Council. The Archbishops, at the instance of the last-mentioned body, appointed a committee to examine and report on the relations of Church and State. When this committee had made its report to the Council, another Committee was appointed to examine and report and make recommendations, and on

the presentation of this second committee's report it was decided that the Convocations should present addresses to His Majesty "touching the constitution of the proposed National Assembly of the Church of England." These addresses were presented in identical terms in May 1919, and prayed that—

subject to the control and authority of your Majesty and of the two Houses of Parliament, powers in regard to legislation touching matters concerning the Church of England shall be conferred on the National Assembly of the Church of England constituted in the manner set forth in the appendix attached to this Address.

The Appendix is a lengthy document which provides that the Assembly shall consist of two Houses, viz. Bishops who are for the time being members of the Upper Houses of the two Convocations; Clergy who are for the time being members of the Lower Houses, and Laity who are elected every five years in the manner provided by the Constitution. There are two provisions of special importance in this appendix: (1) that any measure touching doctrinal formulæ or the services or ceremonies of the Church of England, or the administration of the Sacraments or sacred rites thereof, shall be debated and voted upon by each of the Houses sitting separately, and shall then be either accepted or rejected by the Assembly in the terms in which it is finally proposed by the House of Bishops; (2) that nothing in this constitution shall be deemed to diminish or derogate from any of the powers belonging to the Convocations, nor shall the Assembly exercise any power or perform any function distinctly belonging to the Bishops in right of their episcopal office.

In the Act the "Church Assembly," the "Constitution," and the "Legislative Committee" are defined as meaning respectively the Assembly constituted in accordance with the Constitution in the appendix to the Addresses of the Convocations, the Constitution of the Assembly as set forth in that appendix, and the Committee appointed by the Assembly, to whom all measures which it is desired to pass into law shall be referred.

By s. 2 an "Ecclesiastical Committee" is set up consisting of fifteen Members of each House of Parliament, and appointed respectively by the Lord Chancellor and the Speaker.

The procedure of legislating under the Act is as follows: A measure passed by the Assembly is sent to its Legislative Committee, and by it submitted with comments and explanations to the Ecclesiastical Committee. The latter then considers it and reports thereon to Parliament, after first submitting its draft report to the Legislative Committee. This draft report must contain a statement of the nature and legal effect of the measure and its views as to the expediency thereof, especially with relation to the constitutional right of all His Majesty's subjects. An opportunity is afforded to the Legislative Committee at this stage to withdraw the measure, and the Ecclesiastical Committee may not present the report to Parliament until the Legislative Committee signify their desire that it should be so presented.

Upon presentation of the report to Parliament, with the text of the measure, if each House passes a resolution that it shall be presented to His Majesty in the form in which it has been laid before Parliament, the measure may receive the Royal Assent as an Act of Parliament. The

Act thus, while securing the authority of Parliament, gives the Church of England a large measure of freedom.

The Acquisition of Land (Assessment of Compensation) Act, 1919, defines the procedure and principles to be adopted in fixing the compensation for land compulsorily acquired for public purposes, with one or two specified exemptions to which special considerations apply.

The principles of the new Act are applicable to any case where land is compulsorily acquired under statutory powers, whether the powers are conferred before or after the passing of the Act. The cumbrous and expensive procedure of the Lands Clauses Acts is entirely displaced, and it is hoped that, whilst reasonable compensation will be given to dispossessed owners, the excessive awards which have been so common under that procedure will be avoided.

The Act provides for the appointment of a panel of official arbitrators by a "Reference Committee" consisting, in England, of the Lord Chief Justice, Master of the Rolls, and the President of the Surveyor's Institution. All claims for compensation are referred to one of the official arbitrators, whose award will be guided by the principles laid down in the Act.

The value of land, generally speaking, is to be taken as the amount which the land, if sold in the open market by a willing seller, might be expected to realise, and no allowance is to be made on account of the acquisition being compulsory.

The special suitability of the land for any purpose is not to be taken into account if that purpose is one to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the needs of a particular purchaser, or the requirements of any Government Department or any local or public authority.

The Act provides that where the acquiring authority makes an unconditional offer in writing and the award does not exceed the amount offered, the claimant is to bear the costs. On the other hand, where a claimant has made an unconditional offer to accept any sum as compensation and the sum awarded is equal to or exceeds that sum, the costs are to be borne by the acquiring authority.

The Aliens Restriction Act (c. 92), as originally introduced was, in the main, a transitory measure. Sufficient data were not yet available and international relations not yet sufficiently settled to enable a permanent measure to be drafted dealing with the whole question of the treatment of aliens in the United Kingdom, and it was accordingly proposed to continue for two years the comprehensive emergency powers which had been exercised by the Executive throughout the war. Opportunity was, however, taken during the passage of the Bill in Parliament to introduce several amendments of a permanent nature, which were pressed upon the Government, and were directed principally to retributive action against "former enemy aliens."

As finally passed, the powers of executive action, above referred to, were cut down to one year.¹ Severe penalties were imposed on aliens who attempt or do any act calculated to cause sedition or disaffection in the forces or amongst the civil population. All aliens are disqualified from holding pilotage certificates, and, subject to certain exceptions, from acting as master, chief officer, or chief engineer on British Merchant

¹ They have since been extended till December 1921 by the Expiring Laws Continuance Act, 1920.

ships. Aliens are also disqualified for appointment to any office in the Civil Service. Restrictions are placed upon the change of name by aliens and upon the right of aliens to serve as jurors.

The special provisions of the Act as to former enemy aliens provide for the deportation of all such persons, unless an Advisory Committee, set up under the Act, recommend on special grounds that they should be allowed to remain. This provision does not, however, apply to former enemy aliens who were exempted from internment or repatriation during the latter part of the war.

Former enemy aliens are prohibited for three years from entering the United Kingdom without the permission of the Home Secretary, to be granted only on special grounds and to be limited to a period of three months, and aliens of this class are prohibited for a period of three years from acquiring any interest in land, or any interest in "key industries," or any share in a company owning a British ship. They are also entirely prohibited from employment in any capacity on a British ship.

None of these provisions as to former enemy aliens applies to women who at the time of their marriage were British subjects.

Transitory Provisions.—Various temporary laws were passed during the session. Their object was either to enable the subject-matter to be dealt with pending permanent legislation, or to continue provisions made during the war, which the circumstances of the country did not yet permit of being discontinued.

The Air Navigation Act (c. 3) enabled the Secretary of State, by order, down to the end of the year and pending international agreement, to regulate air navigation over the British Isles; whilst, among the war measures temporarily continued, sometimes with modifications, were Acts relating to naval, military, and air force service, the standardisation of wages (c. 18), the limitation on increases of rent and mortgage interest, and the emergency powers of Courts to deal with unpaid debts (c. 64).

Acts of Minor Importance.—Of the other Acts passed during the session dealing with general subjects it is not possible to make more than a summary mention, although several of them, in ordinary sessions, would have attracted considerable attention:

The Land Settlement (Facilities) Act (c. 59) was passed with the object of increasing the number of small holdings in the country generally, especially among ex-service men. It makes amendments of considerable importance in the law relating to the provision of small holdings and allotments, and confers power on the Minister of Agriculture to act in default of local authorities, where they consider that such authority has not sufficiently exercised its powers in relation to small holdings and allotments. The Minister of Agriculture is also authorised for two years after the passing of the Act to acquire land for reclamation and for small-holding colonies.

The Nurses Registration Act (c. 94) provides for the establishment of a general Nursing Council for England and Wales, consisting of twenty-eight members nominated by the Privy Council, the Board of Education, and the Minister of Health. The Council is charged with the duty of preparing a register of nurses, and prescribing the qualifications for admission to the register, and penalties are imposed on any unregistered person who "takes or uses the name or title of registered nurse, either alone or in combination with any other words or letters, or any name,

title, addition, description, uniform or badge," implying that he or she is registered, or is recognised by law as a registered nurse.

The Profiteering Act (c. 66)¹ conferred on the Board of Trade power to investigate prices, costs, and profits at all stages, and receive and investigate complaints that a profit has been made, on the sale of any article to which the Act applies, which is in view of all the circumstances unreasonable, with power to declare what would be a reasonable price, and to require the seller to repay the excess. The Board have power to authorise local authorities to establish local committees to exercise on their behalf the powers of inquiry conferred upon them by this Act. These powers include the right, in cases where it is found that an unreasonable price has been charged, to recommend a prosecution against the seller, in which case the seller is liable on summary conviction to a fine not exceeding £200 or imprisonment for a term not exceeding three months.

The Act may be applied by order of the Board of Trade to "any article declared by the order to be one or one of a kind in common use by the public."

The Board of Trade is required to obtain all available information as to "the nature, extent, and development of trusts, companies, firms, combinations, and agreements connected with trade in its various forms, and having for their purpose of effect the regulation of prices or output of commodities or services, or the regulation of transport rates and services, in so far as they tend to the creation of monopolies or the restraint of trade."

The Parliamentary Elections (Soldiers) Act (c. 10) abolished the old practice under which soldiers were required to be kept in barracks on the occasion of parliamentary elections. The Army Annual Act (c. 11), besides many unimportant amendments of the Army Act, enables officers to be dealt with summarily for charges of minor importance, as has always been done with N.C.O.s and soldiers. The Local Elections (Expenses) Act (c. 13) raised the maximum amount of the expenses of candidates at local elections from 2*d.* to 3*d.* per elector. The Merchant Shipping (Wireless Telegraphy) Act (c. 38) rendered obligatory the carrying of wireless installation on passenger steamers and all ships of 1,600 tons or upwards. The Retired Officers (Civil) Employment Act (c. 40) provides for abolishing the practice under which officers in receipt of retired pay who are appointed to positions in the Civil Service were deprived of 10 per cent. of their civilian pay. The British Mercantile Marine Uniform Act (c. 62), imposed penalties on the unauthorised use of the uniform prescribed by Order in Council for use by the British Mercantile Marine. The Police Act (c. 46), founded on the report of a committee presided over by Lord Desborough (following upon the strike of the Metropolitan Police in the previous year), provides for the establishment of a Police Federation, acting through local and central representative bodies. The constitution and powers of the federation are set out in the Schedule to the Act, but the Act at the same time prohibits any member of the police force from becoming or being a member of "any trade union or any association having for its objects the control or influence of pay, pensions, or conditions of service of any police force," subject to the penalty of forfeiture of all pension rights and disqualification for being thereafter employed in any police force. A general power is

¹ The Act was originally in force for a short period only, but has since been continued with amendments.

conferred on the Home Secretary to make regulations as to the government, mutual-aid pay, allowances, pensions, clothing expenses, and conditions of service to the members of all police forces in England and Wales, with a view to enabling the recommendation of Lord Desborough's Committee on these subjects to be put into operation.

Other Acts related to the prevention of anthrax (c. 23), the establishment of a Court of Appeal in the West Indies (c. 47), operations on animals (c. 54), the retirement and pensions of County Court Judges (c. 70), trade marks (c. 79), and patents and designs (c. 8).

Acts relating solely to Ireland and Scotland.—The Criminal Injuries (Ireland) Act (c. 14) extends the provisions of earlier statutes with respect to the payment of compensation by local authorities to persons who have been injured maliciously and to the representatives of persons who have been murdered. It brings within the scope of the Act judges, magistrates, and members of the combatant or police forces or civil service who are injured maliciously in the execution of their duty on account of acting in an official capacity, and persons sustaining malicious injuries to the person through the operation of seditious combinations.

The Public Health (Medical Treatment of Children) Ireland Act (c. 16) requires local authorities in Ireland to provide for the medical inspection of children attending elementary schools, and to make arrangements as regards their health and physical condition. The expenses of the local authorities are to be defrayed out of the Exchequer up to an amount not exceeding one-half. The Act is virtually an extension to Ireland of certain English enactments dealing with the same subject-matter.

The Local Government (Ireland) Act (c. 19) introduced the system of proportional representation at all contested elections of members of local authorities in Ireland. It also contains provisions for securing the payment of pensions and allowances to officers of local authorities on removal or resignation.

The Housing (Ireland) Act (c. 45) reproduced the main provisions of the Housing, Town Planning, etc., Act, 1919 (see above), with the modifications required to adapt them to Irish conditions.

The Constabulary and Police (Ireland) Act (c. 68) provides for the establishment of representative bodies in the Royal Irish Constabulary and the Dublin Metropolitan Police, to consider and report on matters affecting the welfare and efficiency of those forces. In this respect it follows generally the English Police Act (see above). It also empowers the Lord Lieutenant to regulate the pay, pensions, and allowances of the members of the forces, with the concurrence of the Treasury.

The Irish Land (Provision for Sailors and Soldiers) Act (c. 82) extended the Irish Land Purchase code, so as to enable land to be purchased by ex-service men on easy terms of repayment, and extended the Irish Labourers' code so as to enable cottages with or without acre plots to be provided.

The Nurses Registration (Ireland) Act (c. 46) makes similar provision for Ireland to that contained in the corresponding English Act.

The Intestate Moveable Succession (Scotland) Act, 1919, gives the mother of a person dying intestate and without issue, and predeceased by his father, the same rights of succession to his moveable estate as his father would have had, on survivance.

Other Acts relating only to Scotland deal with Education (Superannuation) (c. 17), Housing and Town Planning (c. 60), Land Settlement

(c. 97), and Nurses Registration (c. 95), on the same lines as the corresponding English and Irish Acts.

2. JERSEY.

[Contributed by E. T. NICOLLE, ESQ., VICOMTE OF JERSEY.]

Venereal Diseases.—The States of Jersey passed an Act (April 1, 1914), confirmed by His Majesty in Council, with the object of rendering more stringent the penalties against unqualified persons who shall treat persons suffering from venereal diseases, and of suppressing advertisements and the sale of quack medicines for the same. Patients may be treated gratuitously at the States' Hospital.

Education Scholarships.—By an Act of the States (February 27, 1919), confirmed by His Majesty in Council, the funds of two ancient grammar schools of Henry VII.'s reign, which had been allowed to accumulate for many years past, are to be devoted to provide scholarships at Victoria College, Jersey (a public school for boys ten to twelve years of age), who shall have been at school in Jersey for two years, and succeed in passing an examination. Half of these scholarships are to be granted to boys from the elementary schools.

Extension of the Franchise.—An Act of May 22, confirmed by His Majesty in Council, provides for the extension of the franchise in Jersey.

Every male British subject who has attained twenty years of age, and every female British subject who has attained thirty years of age, and who is not under disability, has the right of voting in public elections, if he or she possesses one of the following qualifications:

1. Is inscribed on the municipal rate list.
2. Occupies a house or ground of an annual rent of at least £10.
3. Is on the Active List of the Royal Jersey Militia, or on that of any force for the defence of the island which may replace the militia in the future.
4. Is the wife of a man who has the right to be inscribed on the electoral list; the disability of the husband not debarring the wife from claiming her right to a vote.

II. NORTH AMERICA.

1. DOMINION OF CANADA.

[Contributed by F. H. GISBORNE, ESQ., K.C., I.S.O.]

There were two sessions of Parliament held in the year 1919. The first extended from February 30 to July 7; and the second, the principal object of which was to confirm the Peace Treaties, sat from September 1 to November 10. At the first session there were seventy-six public Acts and seventy-eight private Acts. Of the latter fifty-one were for divorce, sixteen were for amending railway charters, five related to insurance companies, and the remaining six related to other companies. There has been a great falling off of private legislation, due principally to the unsettled conditions arising from the war. The greater number of public Acts were amendments to various statutes to facilitate the administration of the law to which they relate.

Air Board.—Chapter 11 authorises the appointment of a Board on Aeronautics, called the "Air Board." Very large powers are given to the Board and the Governor-General in Council for the making of regulations to regulate and control aerial navigation over Canada.

Railways.—Chapter 13 incorporates the Canadian National Railway Company, which is really a Government company for the management of the Canadian National Railways, including the Canadian Northern system recently taken over by the Government. The Act makes provision for the appointment by the Governor in Council of five to fifteen directors, who are to manage the Canadian National railways.

Fire.—Chapter 15 is an Act to amend the Criminal Code with a view to preventing the extravagant loss that occurs in Canada from fire, and makes a person criminally liable who by negligence occasions loss of life or property, and also penalises a person who refuses to provide proper fire apparatus or to make such changes in his premises as the constituted authorities may deem necessary for the purpose of putting out or preventing fires.

Bankruptcy.—The most important piece of legislation was the passing of a Bankruptcy Act, Chapter 36, which is based on the English statute and for the most part adopts the actual language of the English statute with merely such modifications as local conditions require.

Board of Commerce.—Another important statute was an Act creating a Board of Commerce for Canada, which is perhaps rather a misleading title. The Board of Commerce is really a court of record consisting of three Commissioners appointed by the Governor in Council, whose duration of office is to be ten years. The object of the court is to inquire into cases where it is suspected that prices are being unduly increased, that undue profit is being made, or that goods are being hoarded so as to unduly increase the cost of living, and the court is given very large powers for such purposes. This is an exceedingly interesting experiment; but, unfortunately, difficulties of a personal character in respect to the first three Commissioners who were appointed arose. These Commissioners have all resigned and new appointments have since been made, but it is too early yet to express any opinion as to how far the new Commissioners will be able to satisfy the expectations of the public.

Fair Prices.—Chapter 45 is another new statute, called "the Combines and Fair Prices Act, 1919," which is to be administered by the Board of Commerce, and gives the Governor in Council power to admit articles free of duty, or to reduce duties if the Governor in Council is satisfied after inquiry by the Board of Commerce that any combine to promote undue advantage to manufacturers or dealers is facilitated by such duties, and also gives power to the Exchequer Court of Canada to revoke a patent if a patent is used for any such purpose. The Act also forbids the unreasonable accumulation or the hoarding of the necessities of life, and authorises the imposition of imprisonment and fine.

Pensions.—Chapter 43, the Pension Act, regulates the pensions that are to be paid with respect to deaths and disabilities arising out of the late war, and was, I believe, the most liberal pension system established by any country. Up to the time of the passing of the Act a pension system had been conducted on the authority of an order in council, and that order had been based upon the findings and report of a Committee of the House of Commons which had been made at the end of the session of 1916.

Aliens.—A number of amendments to the Criminal Code were made, among which was a provision that aliens were not to carry firearms without permits, and additional legislation with respect to sedition and unlawful associations. The first amendment was passed to cope with the difficulty of foreigners who come to Canada and make a practice of carrying firearms, which they use for the most part against one another, often upon very slight pretext, resulting in many murders. The sedition sections were prompted by the German methods disclosed by the war.

Highways.—Chapter 54 is an Act to encourage the improvement of highways, and under it Canada set aside twenty million dollars to assist the Provinces in improving the highways. One of the most important and widespread movements in Canada at the present time is the effort to improve the highways; but highways have always been regarded as local works, and as such under the exclusive jurisdiction of the provincial authorities. The Act leaves the roads under these authorities, and only reserves such control of the grants to the Dominion as will secure the money being used for the purposes intended.

Land Settlement.—Chapter 71, the Soldier Settlement Act, 1919, creates a Board which is given power to acquire land which they may sell to soldiers who served during the late war. The Board is also authorised to train the soldiers in agriculture and their wives in home economics, and to make advances to these settlers to supply them with stock and equipment. There seems to be every prospect of the measure leading to great benefit, and that a very considerable number of returned soldiers will become successful farmers.

Technical Education.—Chapter 73, the Technical Education Act, sets aside certain sums of money for ten years to assist the several Provinces in providing vocational, technical, and industrial education. Under the British North America Act education is a matter that is allotted exclusively to the Provinces; but in 1913 the Dominion set aside money to assist the Provinces in agricultural education, and now the Dominion renders similar assistance to the Provinces with respect to technical education. As in the case of the grant for road improvement, the Dominion only reserves to itself such control over the grants as will enable the Government to see that the money is used in such a manner as it approves of.

The legislation of the second session of 1919 consisted of thirty-one public Acts and five private Acts, four being divorce Acts and the other relating to an insurance company. The principal public Act was the one confirming the Treaties of Peace. Most of the other Acts were Acts to amend other Acts to facilitate their administration.

Civil Service.—One very important Act, however, was the Civil Service Amendment Act, which placed all Civil Service appointments under the control of an independent Commission, the tenure of office of the three Commissioners being the same as that of judges of a Superior Court. The Commission was given power to classify and grade the Civil Service, and the appointments, as far as possible, are to be made by competition at public examinations.

Prohibition.—An important amendment was made to the Canada Temperance Act, under which a plebiscite may be held to decide whether the importation and the bringing of intoxicating liquor into any Province may be forbidden. Several Provinces held plebiscites under this Act.

Railways.—Chapter 17 provides for the acquisition by the Govern-

ment of the Grand Trunk Railway, the amount to be paid to be settled by arbitrators.

Oleomargarine.—The importation and manufacture of oleomargarine up to the time of the war had been forbidden by statute, in the interest of the dairying industries of Canada. It was then permitted by order in council as a war measure, and now by Chapter 24 the manufacture and importation of oleomargarine was permitted until August 1920, and the sale until March 1, 1921.

Royal Canadian Mounted Police.—By Chapter 28 the Royal North-West Mounted Police disappears, and is replaced by the Royal Canadian Mounted Police, consisting of a consolidation of the old Royal North-West Mounted Police and the Dominion Police. These police are to be available for service in any part of Canada. The Dominion Police was a body constituted for the protection of the public buildings and to assist in the administration of the Federal laws; but they were, with a few exceptions, all stationed at Ottawa. As a result of this Act, in addition to what were the Dominion Police, a detachment of the Mounted Police is now stationed at Ottawa, which will be available for the maintenance of law and order in any case of emergency in Eastern Canada.

2. ALBERTA.

[Contributed by J. D. HUNT, Esq., K.C., Clerk to the Legislative Council.]

The second session of the fourth legislature of the Province of Alberta opened on February 4, and, after almost continuous daily sittings, closed on April 17. Among the fifty-odd public Bills passed are some of an outstanding constructive nature. This feature applies particularly to the Acts relating to municipal affairs and health.

Seed Grain.—The important question of a supply of seed grain was met early in the session (c. 9) by the re-enactments of the Acts of 1918, under which residents in municipal districts could get seed. This year feed was added, through the municipal councils, and for residents outside of municipal districts through the Department of Agriculture. These methods were augmented by a new Act, providing that loan companies and other mortgagees might advance moneys for seed grain and feed to their borrowers, and charge the amount against the loan on the land.

Taxation.—The Arrears of Taxes Act (c. 18) lends a helping hand to many owners who were likely to lose their lands on account of being unable to pay the accumulated back taxes. The Act practically consolidates all arrears of taxes and penalties at December 31, 1918, and provides that any owner of lands in arrears where the title has not been transferred shall be allowed to pay said arrears in eight equalised consecutive annual instalments of blended principal and interest, payable at the same time as the current year's taxes, the first instalment to be paid in 1921.

Municipalities.—An Act (c. 17) to ameliorate the financial conditions of municipalities provides that at the request of any municipality, or of the holders of one-quarter in value of the bonded indebtedness, the Government may appoint a Commission, of one or more, to investigate the financial affairs of the municipality, consult the parties interested, and recommend a scheme whereby payment of liabilities may be extended in whole or in part, or the accumulation of a sinking fund be postponed

or reduced for a limited time, or debentures renewed or converted, or liabilities consolidated and new debentures issued therefor. The recommendation is to become effective and binding upon the municipality and upon all persons interested upon obtaining the consent of holders of three-fifths in value of the amount of the bonded indebtedness, and upon approval of the Lieutenant-Governor in Council.

An Act (c. 52) respecting subdivisions and other property gives an appointed commission power, at the request of any owner of lots in a subdivision, to investigate the basis of assessment and taxation, the value of the land, the expenditure for its benefit, whether it was taken into the municipality with or against the desire of the then owner, and to recommend a reduction in the amount of arrears, the payment by instalments and adjustment of debenture indebtedness as may be thought proper. At the request of the owners of not less than half the assessed value of land in any area, whether subdivided or not, which appears to call for exceptional or restrictive methods of assessment and taxation, it may also investigate and recommend a system rate and method to apply to the lands for such period as may be just.

In the case of arrears as to subdivided land, the Commission shall have the right to reduce the amount of arrears and to fix the time and manner of payment, and shall have power to cancel all such subdivisions, including streets and lanes, and to execute all necessary documents for registration, such recommendation to become effective and binding upon approval by the Lieutenant-Governor in Council.

The trend of amendments to Acts relating to assessment and collection of taxes is to assess by value, rather than by acreage, and to have the work done by municipal district councils for organised territory, paying a commission for collection, and by the department of municipal affairs for unorganised territory. Provision is made for the equalisation of assessments for provincial purposes by a tax commissioner.

An Act to provide for the recovery of taxes is entirely new, and sets out the procedure for tax sales, beginning with the year 1920. Lands in arrears, after the first day of July, unless otherwise legally provided for, as in the case of consolidated arrears, are liable for sale annually, not later than November 15.

Lands may be redeemed within one year of the date of sale on payment to the treasurer of the amount due, with penalties and costs. Within thirty days after the time for redemption is up the treasurer has to send a notice to each person shown by the records of the Land Titles Office to have an interest in lands not redeemed, and after sixty days from mailing of such notice he has to send a list of the unredeemed lands, together with any protest received, to a judge of the district court, who shall, after inquiry, order the treasurer to issue transfer to the purchaser or otherwise as seems to him advisable.

The amendments to the Municipal District Act give councils power to engage a physician, or a public-health nurse, to attend residents of the district and to give instruction, and lecture on questions of public health. Several changes have been made in regard to by-laws for the restraining of animals at large. Municipal districts are to levy and collect the wild lands tax, the educational tax, the municipal hail insurance tax, and the municipal hospital tax, on a commission basis. In order to give more attention to health matters and to have direct responsibility, a Department of Public Health has been established and its

administration placed under the Minister of Municipal Affairs, who is also Minister of Health. Provision has been made by various Acts to provide for payment of indebtedness contracted by municipalities in fighting the influenza, to define and increase the powers of the Provincial Board of Health, including the power to license undertakers' charges, and to determine the price to be charged for all classes of caskets, and to compel local Boards of Health to carry on the provisions of the Health Act.

The Municipal Hospitals Act (c. 8) makes full provision for the establishment and carrying on of district hospitals by the ratepayers under the management of an elected board, and subject to Government regulations.

Nurses.—The Public Health Nurses' Association Act (c. 7) provides that a register of nurses shall be kept in the Minister's office, where nurses may subscribe their names and place their services at the disposal of the health authorities during an epidemic. Upon passing an examination on a special course of study, given in connection with the university, nurses shall be entitled to a diploma and be qualified to inspect the children in schools. Trustees are empowered to employ such a nurse to inspect school children and to interview the parents regarding any defect or ailment found, and it shall be the duty of the parent or guardian to provide such treatment as the facts and circumstances demand, on a penalty of a fine for refusal or neglect. Any nurse who has taken a course on obstetrics, and has obtained the consent of the Minister, may practice midwifery in any designated part of the Province, where, in the opinion of the Minister, the services of a physician are not available, and may charge such fees as are fair and reasonable.

Women's Institute.—Women's Institute girls' clubs, consisting of eight or more girls of twelve years of age or over, may be organised (by c. 41), and receive an annual grant of \$5 each.

Eggs.—An Act (c. 28) respecting the sale of eggs makes any person who deals in unwholesome eggs liable to a fine of not more than \$100 and costs. First handlers buying from producers must candle the eggs and reject bad ones.

Police.—The Board of Police Commissioners has been done away with by c. 26; the management of the force is to be directed by a Commissioner under the control of the Attorney-General. Very extensive powers are given the members of the police force in respect of the enforcement of the Liquor Act. Every municipality must have one or more municipal constables, and must provide police lock-up accommodation.

Land Titles.—The Land Titles Act has been amended by c. 12, and hereafter a mortgagee must elect to take the choice of either foreclosure proceedings or mortgage-sale proceedings. If he has chosen, or chooses, foreclosure proceedings, and takes the land, it is a full payment of the debt secured. If he takes mortgage-sale proceedings he must sell the land and apply the proceeds before proceeding on the personal covenant, and then only for any balance unpaid.

No execution can now be registered unless it sets forth the full name, residence, and occupation of a debtor. This will prevent a person's land from being tied up by an execution against another party with the same initials or the same name in different localities, or of different occupations. Executions against lands have to be re-registered within six years.

Dower.—The Dower Act (c. 40) contains an amendment to the effect that where husband and wife are living apart a judge of the supreme court may, by order, dispense with the consent of the wife to any proposed disposition of land in which she might claim dower, if in the opinion of the judge it seems fair and reasonable so to do.

Mothers' Pensions.—By the Mothers' Allowance Act (c. 6) a widow, and in some cases a wife, who having in her custody a child or children under fifteen years old if boys, and sixteen years if girls, is unable to take proper care of such, may receive assistance—one-half of the cost of which shall be borne by the municipality of which she is resident, and the balance by the Province at large.

Workmen's Compensation.—The amount of compensation allowed under the Workmen's Compensation Act has been increased from \$75 to \$100 for the burial of a workman, and the weekly payment of \$10, in case of permanent disability where there are dependents, by \$2 for the first, and \$1 for each additional, until the total weekly payment reaches \$16, but in no case exceeding in the whole \$2,500.

Mentally Defectives.—Mentally defectives are to be cared for (under c. 21) in an institution provided for the purpose. A charge of \$10 per month shall be paid by the municipality in which the defective has last had his usual abode for at least a year, and the municipality is entitled to collect the amount from the person legally responsible for his support.

Education.—School legislation (c. 32) gives prominence to the organisation of consolidated schools, to the arrangements for the conveyance of children, and to the grouping of school districts for the purpose of providing instruction in household science, manual training, or commercial work.

The ordinary grants are considerably increased by c. 32, and many special grants given for new schools, advanced work, equipment for community work, conveyance of pupils, libraries, school gardens, equipment for teaching elementary agriculture, manual training and household economics, teachers' residence, night classes, and the teaching of vocational and technical subjects. The provision to ensure regular school attendance has been amended, and certificates of exemption must now be granted in open juvenile courts.

Fire.—The chief fire and game guardian (by c. 4) may make regulations with regard to fire guards and the use thereof by railway companies, and as to the patrol of any line of railway and neighbouring land.

Factories.—An amendment (by c. 4) to the Factories Act gives the Lieutenant-Governor in Council power to appoint, in any city or town having a population exceeding 5,000, two persons, one to represent employers and the other to represent employees, and these, together with a third to be appointed by the Attorney-General, shall constitute an advisory committee, whose duty it shall be to recommend to the chief inspector such regulation as shall be deemed fair and just respecting hours of labour and minimum wages, provided that no such regulation shall allow a lower minimum wage or a greater number of hours of labour per day or per week than allowed by the Act.

Stallions.—By c. 4 no stallion which has been brought into the province and which is more than twenty-four months old shall be sold or offered for sale unless, and until, it has been enrolled under the Stallion Enrolment Act.

Animals.—Any sheep which passes through, under, or over any fence,

whether lawful or not, shall be deemed (by c. 4) to be a notoriously breachy animal, and the owner thereof shall be liable in a civil action for any damage done thereby.

No hog shall be allowed to run at large at any time in any part of the province, and the owner shall be liable (under c. 4) in a civil action for any damage done by it, whether or not the land is surrounded by a lawful fence, and all hogs shall be deemed to be mischievous animals within the meaning of the Act.

Prescriptions.—The Lieutenant-Governor in Council is given power, by c. 4, to fix the form of prescription to be used by physicians for the purpose of prescribing liquor, and no physician shall prescribe liquor upon any other form; and, further, shall have the power and authority to fix, from time to time, the price at which liquor shall be sold by druggists. A vendor may sell liquor on the prescription of a physician in the same manner as a druggist.

Co-operative Credit Societies.—The minimum number for organisation under the Alberta Co-operative Credit Act has been reduced from thirty to fifteen farmers, and the subscribed stock from \$3,000 to \$1,500; but no society shall commence business until it has thirty members and \$3,000 subscribed, with not less than 20 per cent. paid up. The objects of the society have been extended to include the placing of fire and hail insurance, and the society is given power to take security of any sort, in such manner and form as may be fit and proper for loans made.

Poisons.—Under c. 4 poison shall not be set out south of the 55th degree, north latitude, by any person except upon his own premises, and then not unless it is mixed with grease and placed in a hole or hollow, or in a piece of timber or other material, or in a vessel; provided that any person may set out poisoned grain in reasonable quantities for the destruction of gophers, either upon his own premises, unoccupied land adjoining, or upon any road allowance or highway.

3. BRITISH COLUMBIA.

[Contributed by A. V. Pineo, Esq. *Legislative Counsel*]

Acts passed—99: Public—93; Private—6.

Administration.—C. 1 adds to the Administration Act (R.S.B.C. 1911, c. 4) provisions for the discharge of a personal representative at any time upon the passing of his accounts and the appointment of a successor. It amends the rules as to distribution of intestate estates by providing that where there are no children or legal representatives of children the whole of the surplusage shall be allotted to the widow; and also makes it clear that in cases of distribution among the next of kindred representatives shall not be admitted among collaterals after brothers' and sisters' children.

Housing.—C. 8 provides for the borrowing of \$1,500,000 by the Province from the Government of Canada, and the advancing of appropriate sums therefrom to the respective municipalities in the Province for the carrying out of approved schemes of better housing. These schemes cover both the purchase of land and the erection of buildings. Special reference is made to the providing of home sites for returned soldiers.

Coal-mines.—C. 58 provides for the appointment of a Board with power to fix the minimum wage for coal-miners. It also enacts improved provisions for the examination of applicants for certificates of competency as coal-miners, and for the prevention of accidents in mines by inflammable gas or defective winding-ropes.

Company Towns' Regulation.—C. 14 makes provision for free access by the public to communities located upon lands owned by an industrial corporation, and for the throwing open to public use of streets and wharves maintained by the corporation.

Crown Lands.—C. 42 amends the Land Act (R.S.B.C. 1911, c. 129) by providing that hereafter a Crown grant when issued shall be transmitted to the proper Land Registry Office instead of being delivered to the grantee. It also provides for the remission of interest and fees otherwise payable by returned soldiers on purchases and pre-emptions of Crown lands. Cc. 43 and 46 make provision for the protection of sub-purchasers of Crown lands which have become forfeited by reason of the default of the purchaser.

Daylight Saving.—C. 17 gives power to the Lieutenant-Governor in Council to prescribe a period in each year in which the time, for general purposes in the Province, shall be one hour in advance of standard time.

Department of Industries.—C. 34 creates this new Department with a Minister and Deputy Minister in charge, the latter to be known as "Industrial Commissioner." Included in the functions of the Department are the carrying out of an economic survey of the natural resources of the Province, and the aiding by loans of approved enterprises for the development of those resources. Special reference is made to the promotion of enterprises for the employment of returned soldiers. Authority is given for raising \$2,000,000 for the purposes of the Act by the sale of provincial securities.

Deserted Wives' Maintenance.—The law respecting the maintenance of wives deserted by their husbands is amended and consolidated in C. 19. The Act now extends to cover cases of non-support as well as desertion, and allows the wife to sue for the support of herself and infant children without requiring her to live apart from her husband. The Attorney-General, and any municipality required by law to make provision for its poor, may make complaint under the Act on behalf of the destitute or deserted wife. Both husband and wife are made compellable witnesses in matters relating to the enforcement of the Act.

Direct Legislation.—C. 21 makes provision for the initiation and approval of legislation by the electors, following in general the provisions of similar Acts passed in the other Western Provinces of Canada.

By initiative petition, the electors may submit for consideration of the Legislature any proposed law which does not contain provision for the appropriation of any part of the public revenue. Where the Legislature fails to enact the proposed law in accordance with the petition, the law is submitted to a vote of the electors at the time of the next provincial election or by a special initiative vote, as required by the petitioners. Where the law is to be submitted to a vote of the electors, the Legislature may propose a different law dealing with the same subject, and both laws are then submitted, in competition, at the same time. The Act provides that where a proposed law is approved by vote of the electors, it shall be enacted by the Legislature at the next session without amendment, and shall come into operation upon receiving the Royal Assent.

The Act also provides for referendum petition and vote, but limits referendum proceedings to those Acts passed by the Legislature which contain an express provision that their coming into operation is subject to referendum.

For the purpose of initiative and referendum petitions the signatures of not less than 25 per centum of the total electors of the Province are required ; and the petitioners must include, as to 75 per centum of the electoral districts, electors in each district to the number of at least 10 per centum of the electors of the district. The Act makes special provision for the verification of petitions and the elimination of opportunities for fraud in the signing of petitions.

Employment Agencies.—C. 26 repeals the former Employment Agencies Act (1912, c. 10), and prohibits the collecting of fees by private employment agencies for securing employment. Under an amendment of the Department of Labour Act (c. 39), the Government assumes the duty of maintaining public employment bureaus.

Fire Insurance Policies.—C. 37 re-enacts in consolidated form the Fire Insurance Policy Act (R.S.B.C. 1911, c. 114) and amending Acts, with some modifications of the statutory conditions of policies.

Land Registry.—C. 40 amends the original Act (R.S.B.C. 1911, c. 127) by providing more convenient and effective rules for the preparation, deposit, and registration of plans, making special reference to subdivision plans and right-of-way plans.

Land Settlement.—C. 41 extends the power of compulsory purchase, formerly exercisable by the Land Settlement Board within established settlement areas, to the purchase of non-productive agricultural or pastoral lands situate in any part of the Province ; and makes further provisions for the administration of settlement areas, and the promotion of land settlement.

Marriage.—C. 52 amends the marriage law by requiring the consent of both parents where the person to be married is a minor. It prohibits the marriage of any person under the age of sixteen years, unless the marriage is authorised by order of a judge. This amending Act (s. 5) provides for the legitimation of children born out of lawful wedlock, whose parents subsequently marry. Provision is made for the retrospective application of this section.

Municipal.—C. 63 amends the Municipal Act (1914, c. 52) by enacting a complete revision of the provisions relating to the assessment and levy of municipal taxes and the conduct of tax sales. Special provision is made for the consolidation of existing tax arrears and extension of time for payment.

C. 70 amends the Municipal Proportional Representation Act (1917, c. 51), by making provision so that a municipality which has adopted that Act may rescind its adoption.

Public Libraries.—C. 48 provides for the constitution of a Public Library Commission having power to foster and superintend travelling libraries and public library associations, and for the establishment by municipal corporations of municipal public libraries under the control of a local Public Library Board.

Public Utilities.—C. 71 enacts a statute for the regulation of public utilities along the lines of similar statutes in force in Manitoba and Alberta.

Venereal Diseases.—C. 88 makes provision for the suppression of these diseases, and the treatment of persons suffering therefrom.

War Statutes.—Provision is made by cc. 4 and 89 for extending the operation of certain Acts the operation of which depends on the continuance of the war. Provisions tending to the relief in various matters, not elsewhere mentioned, of those engaged in war service are found in cc. 12, 18, 44, 76, and 79.

Workmen's Compensation.—C. 93 amends the recent Act (1916, c. 77) by providing that the Board may reduce the periodical payments of compensation payable to alien dependents residing outside of Canada in countries where the cost of living is less than the cost to dependents of the like class in Canada, to such sums as will maintain them in the like degree of comfort as dependents residing in Canada; and for the distribution of the sums so deducted among those children dependents within Canada who, by reason of the number of children in the family, are not receiving individually the full amount of compensation to which they would otherwise be entitled. Further provision is made for the installation of appliances for first-aid, accident prevention, and for prohibiting the operation of any plant unless it is first inspected by the Board and found reasonably free from danger to persons employed therein.

Miscellaneous.—Provision was also made in the Statutes of 1919: For providing more effective measures for the inspection and prevention of diseases among bees (c. 7); for the holding of inquiries by a coroner without a jury in cases where it appears to his satisfaction that the circumstances surrounding the death indicate that no inquest is necessary (c. 13); for disfranchising deserters and others who have evaded military service (c. 25); for prohibiting night work in laundries; and for inspecting passenger elevators and licensing operators (c. 27); for establishing grazing districts and regulating the depasturing of cattle on Crown lands (c. 30); for acquiring by agreement or by arbitration award the right to carry on ore-reduction works or an industrial plant in a defined locality, without being subject to injunction or action for damage at the instance of the owners of adjacent lands, who might claim to be injuriously affected in the use of their lands by reason of the operation of the works or plant (c. 33); for the control of mosquitoes and gophers by the creation of local control-districts with power to levy a special tax to provide funds for the extermination of these pests (c. 62); for the construction of works to prevent the encroachment of rivers upon their banks, and the assessment and levy of taxes upon the lands benefited by the works (c. 73); for the appointment by the Council of Public Instruction of an Official Trustee to conduct the affairs of any school district in substitution for the usual Board of School Trustees (c. 75); for redefining the classes of materials and construction which will be deemed a lawful fence (c. 83).

4. MANITOBA.

[Contributed by I. PITBLADO, Esq., K.C., LL.B.]

1918.

Public Acts—105; Private Acts—13.

A large proportion of the Acts for this year are new and some of them important.

Amusement Tax.—C. 1 provides for a tax on price of admission to theatres, dance halls, race meetings, athletic parks, exhibitions, and other places where entertainment is given. The amount of the tax is graduated according to the price of admission.

Blind Persons.—C. 6 generally provides for the expenditure of money to take care of blind persons.

Dower.—C. 21 gives the wife an interest in the homestead. The disposition of it without her consent is absolutely void. Disposition includes sale, mortgage, and devise. The wife is to have a life interest in the homestead on the death of her husband. Provision is made for the alienation by the husband on the judge's order, dispensing with the wife's consent where the husband and wife live apart two years or more or the wife is a lunatic; the wife is given one-third interest in the total value of her husband's estate. The husband is given an interest in his wife's property, similar to that given to the wife by the Act.

Civil Service.—By c. 13 a Commissioner is appointed to test the qualification of candidates for admittance to the Civil Service, and to investigate and report any violation of the provisions of the Act. The Act establishes various classes of service: (1) Deputy Ministers; (2) Technical Officers; (3) "First class," comprising principal administration officers; (4) "Second class," less important administration officers; (5) "Third class," clerks with duties of minor importance; (6) "Fourth class," janitors, constables, etc.; and, finally, (7) Experts not included in any of the above classes.

Application by competitive examinations and six months' probation is required. Vacancies are filled by promotion if consistent with the best interest of the public service. Retirement must be at the age of sixty-five.

Government Employment Bureau.—C. 25 establishes a bureau for the purpose of finding employment for, and distributing all, male and female labourers throughout the Province free of charge. It prohibits anyone from carrying on an employment agency business.

Minimum Wage.—C. 38 establishes a minimum wage board of two representatives of employers, two of employees, and one disinterested person to be chairman, to fix standards of minimum wages and hours of employment and standards of conditions under which labour is carried on.

Narcotics.—C. 55 regulates the possession and sale of drugs, with the object of preventing habitual use.

Repair Shops.—C. 72 gives a person carrying on repair business the right to sell goods upon which repairs have been made at the end of three months if not called for. Any surplus over charges and costs is to be deposited with the Provincial Treasurer.

Seed Grain.—C. 78 enables municipalities to borrow money, not exceeding \$60,000, to furnish seed grain to farmers or dependents who had served or were serving in the Army.

Unoccupied Land Tax.—C. 90 provides a tax of one-half of 1 per cent. of the assessed value. No tax is to be less than \$1 or more than 20 cents per acre. Lands exempt from taxation include amongst others: land actually used under a grazing lease; unpatented homesteads; parcels less than one acre; 160 acres owned by a farmer resident on or near the same; land one-quarter of which is cultivated, and land unfit for cultivation.

Transient Traders.—C. 93 requires transient traders to take out a Provincial Licence and pay a fee of \$5.

Drainage Commission.—C. 22 appoints a Commissioner to investigate and report on the drainage system, constituted under the Land Drainage Act, to determine (1) Whether the incidence of previous drainage levies among municipalities was equitable; (2) An equitable assessment; (3) The best method of utilising the present drainage system; and (4) To recommend any revision of Drainage Laws.

The amending Acts were not very important; attention, however, might be drawn to the Election Act as amended (c. 23), which prohibits voters from being conveyed to the poll in vehicles supplied for that purpose.

1919.

Public Acts—118; Private Acts—14.

Barbers.—C. 81 requires that barbers must pass an examination and pay fees.

Dower.—C. 26 repeals the Dower Act of 1918 and substitutes a new and more elaborate one. The most important change provides that the wife is not to get one-third of the husband's estate where the testator has given his wife either:

(a) An annual life income of \$6,000; or (b) Property of net value not less than \$100,000; or (c) Insurance Policies of not less than \$100,000; or (d) Moneys, Property, and Insurance aggregating in net value \$100,000; or (e) Moneys, Property, and Insurance aggregating in net value \$50,000; and, in addition, an annual life income of \$3,000.

The determination of the value on amount of net estate is made by a judge of the Surrogate Court. The widow must elect, within three months, to take under the will or under the Dower Act. If the wife is living apart from her husband at the date of his death, she has no rights under the Act unless the judge should otherwise direct.

Electrical Power Transmission.—C. 30 provides that the Minister of Public Works may contract with the City of Winnipeg, the Winnipeg Electric Railway Company, or any person for the supply of electrical power to municipalities within the Province. The municipalities in turn must contract with the Minister of Public Works.

Farm Implements.—C. 33 controls the sale of "large" and "small" farm implements; "large" being defined as traction engines, grain separators, engines, and ploughs; "small" being defined as mowers, binders, and other implements not included in the definition of "large." The vendors of small implements must file annually a list of implements and repair parts, and retail prices of same. The selling price must not exceed the list price. Vendors are to have no lien on implements sold unless specified in a lien note taken for purchase price. On repossession of "small" implements under lien, the vendor is entitled to resell and sue for any balance owing after deducting reasonable expenses incurred in obtaining possession, making repairs, freight, and reselling. In respect of repossession of "large" implements, the amount to be credited to the purchaser is the value of the implement at the date of repossession. Its value is to be determined by agreement between vendor and purchaser, and by arbitration if the vendor and purchaser cannot agree.

Industrial Conditions.—C. 43 constitutes a joint council of industry of five members, with an impartial chairman as far as employers or employees are concerned; two members representative of employers; two members representative of employees. The council has power to investigate any industrial dispute and report as to just and reasonable settlement; to investigate cost of living of employees in any industry; the costs of any commodity or service; the numbers of employees in industries, and of unemployed persons; to investigate and report on living conditions and educational and recreational facilities and unfair profits.

On the request of the parties to an industrial dispute the Board is to act as a board of arbitration.

The board may declare all or any of four clauses in Schedule "A" to the Act to be rules of law for a period to be fixed by the board. These clauses are:

1. An act done in pursuance of an agreement or combination by two or more persons shall, if done in contemplation or furtherance of an industrial dispute, not be actionable, unless the act if done without any such agreement or combination would be actionable.

2. An action against an organisation or against any members or officials thereof on behalf of themselves and all other members of the organization, in respect of any tortious act alleged to have been committed by or on behalf of the organisation, shall not be entertained by any court.

3. An act done by a person in contemplation or furtherance of an industrial dispute shall not be actionable on the ground only that it induces some other person to break a contract of employment, or that it is an interference with the trade, business, or employment of some other person, or with the right of some other person to dispose of his capital or his labour as he wills.

4. It shall be lawful for one or more persons, acting either on their behalf or on behalf of an organisation in contemplation or furtherance of an industrial dispute, to attend at or near a house or place where a person resides or works, or carries on business or happens to be, if they so attend merely for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or abstain from working.

Industrial Research.—C. 44 appoints a bureau to make researches, investigations, and inquiries into the natural resources of Manitoba, to ascertain their extent and value, how and to what extent they could be utilised in the extension of the industries of the Province.

Land Settlement.—The Lieutenant-Governor is given power by c. 50 to appoint a board to make a list of the unoccupied land in Manitoba suitable for settlement, the land suitable for grazing and agriculture, and the price at which the same is held for sale by the owners.

Live Stock Purchase and Sale.—C. 52 enables the Minister of Agriculture to purchase or raise live stock to sell same to *bona fide* farmers actually resident on farms in Manitoba. Sale may be for cash or on credit, up to three-quarters of the purchase price, and all the purchase price must be paid within three years.

Mental Diseases.—C. 53 provides for the creation and maintenance of a psychopathic ward in the Winnipeg General Hospital, to take care of persons who are temporarily in need of treatment for some mental affliction.

Municipal Hospitals.—C. 72 provides for the creation of hospital areas on the receipt of a petition from twenty-five ratepayers of a municipality, or 10 per cent. of ratepayers of any included area. The council may pass a resolution requiring the Provincial Secretary to form the area into a hospital district; on establishing such a district the secretary shall fix the number of members of the Hospital Board from different councils; the Board must then form a scheme for the erection, purchase, or renting of buildings and equipment; the scheme is submitted to the Provincial Secretary, and upon his confirming same the scheme is then submitted to the vote of ratepayers to pass on the proposed expenditure.

Produce Dealers.—"Produce" is defined by c. 78 as any agricultural or farm product except grain. The Act provides for the licensing and bonding of produce dealers, and requires such dealers on selling produce to render a true statement within seven days of sale. Dealers' books may be scrutinised and their licences revoked by the Lieutenant-Governor in Council. Persons guilty of infractions of the Act are liable to a penalty of a fine not more than \$1,000, and imprisonment not more than one year.

Soldiers' Estates.—C. 93 provides that Surrogate Courts and Land Titles Offices and officials thereof shall not charge or collect any fees for any documents registered or clerical services in connection with administration or probate of estates of deceased soldiers.

Soldiers' Taxation Relief.—C. 94 provides that the Municipal Councils shall by resolution authorise exemption or partial exemption from taxation; cancellation of unpaid taxes or penalties; refund of taxes or penalties paid; or withdrawal or redemption from tax sale of or upon property of any soldier up to the sum of \$50 for any year, and not exceeding a total sum of \$300 for each soldier entitled to relief, on being satisfied with the *bona fides* of the application, or on production of a certificate of a County Court judge obtained as in the Act provided.

The Provincial Treasurer is to repay the municipalities any moneys or exemption granted.

Venereal Diseases.—C. 109 provides that a Provincial Board of Health may make regulations for the establishment of dispensaries, and compulsory examinations of persons infected; empowers a qualified member of the Board to enter upon any premises to inquire into and examine the state of health of anyone found therein; requires infected persons to submit to tests; prohibits treatment of infected persons by any person other than a medical practitioner; requires reports of disease to be made by Health Officers and Hospital Superintendents; prescribes a penalty for knowingly communicating venereal disease; prohibits the sale of "quack" medicines; provides for putting up in public places educational placards and notices; and imposes penalties for violation of the regulations made pursuant to the Act.

5. NEW BRUNSWICK.

Acts passed: Public—64; Local and Private—53.

Jury.—The law on the subject of jurors and juries contained in Consolidated Statutes, 1903 (c. 126), and the amending Acts of 1911, 1916, and 1917, is embodied in c. 3.

Sale of Goods.—The English Sale of Goods Act is incorporated in the law of the Province by c. 4.

Factors.—The law recommended by the Commissioners on Uniformity of Laws is passed in c. 5.

Children.—The law relating to the protection of children is consolidated in c. 6. Among the provisions may be noted that any child under the age of 16 may be apprehended after 8 p.m. for loitering about any moving-picture theatre or similar entertainment.

Railways.—C. 17 gives wide powers to the Minister of Public Works as to the control of railways by authorising him to make inquiries into the efficiency of the service to the public. The reconstruction or repair of bridges and the permanent way may be ordered by the Governor. A special inquiry may be held as to the provision of a daily service.

Soldiers' Settlement.—In order to assist soldiers who are suffering from some physical disability preventing them from taking up general farming, arrangements are made by c. 42 so that they can acquire land suitable for "truck gardening," poultry farming, bee-keeping, or the growing of small fruits.

Intoxicating Liquor.—By c. 53 a board of three persons is constituted to take over the business of the wholesale vendors of intoxicating liquor in the Province, and conduct it under Government control. The Lieutenant-Governor may make regulations as to the quality of the liquor supplied to the public on medical prescriptions, and the prices to be charged for it, and the sale of extracts, essences, and tinctures. All doctors, dentists, or licensees are required to make their purchases from the Board representing the Lieutenant-Governor in Council.

Housing.—C. 56 was passed to promote along the lines familiar in England and elsewhere the erection of dwelling-houses of modern character both in urban and rural districts, to prevent overcrowding in houses, to contribute to the general health and well-being of the community by suitable town planning and housing schemes, and to put within the reach of all persons, particularly returned soldiers, the opportunity to acquire their own homes at the actual cost of the building, and land required at a fair market value.

Women Suffrage.—C. 63 extends the electoral franchise to women.

A number of the Acts classified as among the public statutes would be included in England with the local and personal.

6. NOVA SCOTIA.

[It is hoped to publish the summary of legislation in the next issue.]

7. ONTARIO.

[Contributed by JOHN DELATRE FALCONBRIDGE, ESQ.]

Acts passed—129 : Public—84 ; Private—45.

War Tax.—The Provincial War Tax of 1915 is repealed (c. 5). Under the repealed statute the Province had imposed upon every municipality the duty of collecting for the Province, annually, a war tax of one mill on the dollar on rateable property in the municipality. As the tax rate in some municipalities now exceeds thirty mills on the dollar for local purposes,

the removal of the provincial tax will not make the tax-payers unduly rich.

Disqualification.—Defaulters under the Military Service Act and persons who have been convicted of treasonable or seditious offences are declared to be disqualified for ten years from holding any public office, and incompetent to vote at an election of a member of the Legislative Assembly, or at a municipal election, or at an election for school trustees, or on any question or by-law submitted to the electors or ratepayers (c. 6).

Women as Electors and Members of Legislative Assembly.—Since 1918 women have been qualified to vote at elections for members of the Legislative Assembly. C. 8 confers upon them the right to be elected members themselves, if they are of the full age of twenty-one years, British subjects by birth or naturalisation, and resident in Ontario. A woman is deemed to be a British subject for this purpose (c. 8), and for the purpose of voting at an election (c. 7):

(a) If she was born a British subject and is unmarried, or is married to a British subject and has not become a subject of any foreign power; or

(b) If she has herself been personally naturalised as a British subject, and has not since become the subject of a foreign power; or

(c) If she has become a British subject by marriage, or by the naturalisation as a British subject of her parent while she was a minor, and in either case has done nothing to forfeit or lose her status as a British subject, and has obtained a certificate under the signature of a judge of the Supreme Court or of a county or district court, under the seal of the court, certifying that she is of the full age of twenty-one years, has resided in Canada a sufficient length of time, and is possessed of all requirements necessary to entitle her, if unmarried, to become naturalised as a British subject, and that she has taken the oath of allegiance to His Majesty.

Chapter 47 is an Act to enable women to be elected or appointed to municipal offices.

Succession Duties.—Chapter 9 amends the Succession Duty Act by restricting further the exemption from duty of property given away by the donor in his lifetime.

Mining.—Chapter 12 contains various amendments to the Mining Act, and enacts a code of regulations (222 in number) governing mining operations.

Highway Improvement.—Chapter 18 contains some amendments to the Highway Improvements Act, and sets apart the sum of five million dollars to aid in the improvement of public highways.

Ministry of Labour.—Chapter 22 establishes a department of the public service to be known as the Department of Labour, under the direction of a Minister of Labour to be appointed under the Executive Council Act.

Vital Statistics.—Chapter 23 is a revised edition of the former Act respecting the registration of births, marriages, and deaths.

Wills.—The Statute Law Amendment Act (c. 25) continues the vicious practice of former years, by embodying in one statute miscellaneous amendments (in this case to the number of forty-three) to various statutes. The only provision requiring mention here is s. 15, which repeals a section of the Wills Act and substitutes the following (the words in italics being new):

37. Where any person, being a child or other issue, *or the brother or sister* of the testator to whom any real estate or personal estate is devised or bequeathed, for any estate or interest not determinable at or before the death of such person, dies in the lifetime of the testator either before or after the making of the will, leaving issue, and any of the issue of such person are living at the time of the death of the testator, such devise or bequest shall not lapse but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention appears by the will.

Another amendment to the Wills Act is contained in Chapter 29. The Wills Act has, for many years, contained the following provision :

14. Any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate as he might have done before the passing of this Act.

The amending Act of 1919 adds the following as subs. 2 :

(2) Any such soldier, mariner, or seaman shall be deemed to have been since the 4th day of August, 1914, of testamentary capacity, and to have been capable of making a valid disposition by his will of any of his property whether real or personal, notwithstanding that he was at the time of the execution of his will under the age of twenty-one years.

County Judges.—Chapter 26 authorises the Lieutenant-Governor in Council to order that any two or more counties in Ontario shall form a county court district for the purpose of county courts, courts of general sessions, division courts, etc. The object is to facilitate the better distribution of judicial work among the county judges. When every county has its judge (in some cases there are two judges or more), it happens that in some counties the judges may have too much to do, while in others they may have too little to do. The statute also provides in most cases for the payment by the Province of a lump sum to each county court judge in lieu of all fees payable to him as judge of the Surrogate Court and as local master of the Supreme Court. The sum payable to a county court judge as above provided is, of course, in addition to the salary which he receives from the Dominion.

Trustee Investments.—Chapter 31 enlarges the range of securities in which a trustee may invest trust funds.

Public Trustee.—Chapter 32 provides for the appointment of a Public Trustee, who may act as a trustee under any will, settlement, or other trust instrument. He may also accept and administer any charitable or public trust. If he acts under any private trust, he is not permitted to invest in any securities other than securities issued by the Government of Canada or the Government of Ontario.

Marriage.—The Marriage Act is amended (c. 35) by the addition of provisions requiring that when either of the parties to an intended marriage, not a widower or a widow, is under the age of eighteen years, the consent in writing of the father, if living, or, if he is dead, that of the mother, if living, or of a guardian, if any has been appointed, shall be obtained before a licence is issued or a proclamation of the intention of the parties to intermarry is made. The statute provides, subject to certain saving provisions, that this consent is essential to a valid marriage, and that if the consent is not obtained the court shall declare the marriage to be null and void. There is some question whether this statute is *intra vires* of the Provincial Legislature.

8. PRINCE EDWARD ISLAND.

[Contributed by W. E. BENTLEY, ESQ., K.C.]

Of the forty-one statutes enacted in 1919, sixteen are of a public nature.

Franchise.—By c. 1 the Election Act is amended by extending the right to vote without other qualifications to members of His Majesty's Military, Naval, and Air Services who have seen active service overseas.

Liquor Control.—By c. 4 sales of intoxicating liquor under the Liquor Prohibition Act are further regulated, and authority given to the Board of Commissioners appointed by the Government under the Prohibition Act to import and sell liquors under the Act, and to cancel the right of a physician to issue certificates for the sale of liquor when abuses of such privilege are found to exist.

Referendum.—By c. 5 provision is made for a referendum on the continuance or repeal of the Liquor Prohibition Act. Shortly after the passing of this Act a general election took place, resulting in a change of government. The referendum directed by this Act to be taken was not held, and the Prohibition Act has since been continued without such referendum.

Vital Statistics.—By c. 10 the former Acts respecting the registration of births, deaths, and marriages are repealed and consolidated.

Sale of Goods.—By c. 11 the English Sale of Goods Act, 1893, has been adopted for the purpose of making uniform the laws of the Provinces on this subject.

Erection of Dwelling-houses.—By c. 12 provision is made for borrowing money by the Provincial Government and by municipalities for the erection of dwelling-houses, costing not more than three thousand dollars each, for the accommodation of persons who have been on active service during the present war with the naval or military forces of Great Britain or her Allies, and who are residents of Prince Edward Island, and for the lending of money for the erection of dwellings to such persons and to farmers, fishermen, working-men and working-women, and men and women of moderate means.

Prevention of Fires.—By c. 13 investigation is to be made into the cause, origin, and circumstances of every fire, including forest fires. Buildings in dangerous condition or especially liable to fire may be inspected and ordered to be removed.

9. QUEBEC.

[Contributed by MR. JUSTICE FABRE SURVEYER.]

Acts passed—1913.

Revision of Statutes.—C. 2 enables the Cabinet to appoint three commissioners selected from among the judges and lawyers, two secretaries, one English and one French, chosen from among the members of the Bar of the Province, to revise and consolidate the statutes of the Province of a general and permanent nature. They may change the phraseology of the existing statutes, but without altering the sense thereof. Amendments to the existing statutes may be suggested, and reasons therefor must be fully stated. The work and report of the commission shall be done and drawn up in the French and the English

languages, and the Attorney-General is charged with the carrying out of this Act.

The commission has since been appointed. The last revision of the statutes was published in 1909.

Settlement of Returned Soldiers on Crown Lands (c. 9).—The Cabinet may set aside the land necessary for settlement: (a) by soldiers who have served in the naval and military expeditionary forces of Canada during the present war; or,

(b) By soldiers who have been engaged in active service during the present war in the naval or military forces of the United Kingdom, or of any of the self-governing British Dominions or colonies; or,

(c) By soldiers who are British subjects and have been engaged in active service at one of the seats of war, in the present war, in either the naval or military forces of any of His Majesty's allies; or,

(d) By soldiers of other nationalities who resided in Canada before the war, and were engaged in active service at one of the seats of war, in the present war, in either the naval or military forces of any of His Majesty's allies;

Provided that such soldiers have left the forces with an honourable record or have been honourably discharged.

The land shall be conveyed gratuitously, or put at the disposal of the Soldiers' Settlement Board (Federal) for gratuitous conveyance. It shall be exempt from seizure, except for taxes or for the repayment of advances made by the Federal Board.

Workmen's Dwellings.—The Government of the Dominion having offered to advance, by way of loan, to the various Provinces of Canada a sum of \$25,000,000, to be divided among the Provinces, according to their population, in order to encourage and aid in the building of sanitary houses, especially for returned soldiers and town workmen, and to lessen the congestion in large centres, the Cabinet is authorised to accept the loan of the sum allotted to the Province, repayable after a delay of twenty or thirty years as may be agreed upon, at a rate of interest not exceeding 5 per cent. per annum.

The Minister of Municipal Affairs is authorised:

(a) To prepare a general scheme of housing for the Province;

(b) To appoint a Director of Housing and provide for his remuneration;

(c) To advance to cities and town municipalities in the Province such amounts as may be found proper, and pay the same from time to time as the work progresses.

The municipalities are authorised to acquire land, by expropriation or otherwise, and build dwellings, or to advance the money borrowed by them to persons desirous of erecting houses or to housing companies. No dwelling shall cost more than \$4,500, including the value of the lot, which must not exceed more than one-sixth of the total cost. The total advance not to exceed 80 per cent. of the total value, or 85 per cent. in the case of housing companies.

Women's Minimum Wage Act (c. 11).—The Cabinet may appoint a commission of three members, of which the Deputy Minister of Labour or any person designated by the Minister shall be the chairman, and the other two—one of whom may be a woman—appointed by the Cabinet, to investigate the conditions of the work done by women in industrial establishments and the wages paid them. The commission, if it considers the salaries paid in any industrial establishment insufficient, may

convene in a conference an equal number of persons selected by the employers and the employees, and add a number of disinterested persons to it. A member of the commission shall preside at the conference. A majority vote shall determine the minimum wage to be paid to women employed in the industry in question. The decision of the conference shall be submitted to the commission, whose decision shall be binding upon employers and employees, but may be revised on application, after compliance with the same formalities. A special minimum wage may be fixed for women who cannot do the work of an ordinary employee, and for girls under eighteen. The employees whose wage is less than the minimum wage fixed by the commission may recover the difference before competent courts, and an employer paying less than the minimum wage is liable to a penalty not exceeding fifty dollars.

Deputy Minister of Labour.—C. 14 authorises the appointment of a Deputy Minister of Labour, whose duties will be assigned to him by the Cabinet. He may also, either alone or concurrently with the Minister of Public Works and Labour, perform the duties of Chief Inspector of Industrial Establishments.

Prohibition of the Sale of Intoxicating Liquors.—The Quebec Prohibition Act (c. 18) applies to the whole Province, but such of its provisions as are incompatible with the Canada Temperance Act shall be suspended in any municipality where the Canada Temperance Act is and remains in force. The Act contains the following provisions :

The word "sell" means to have or keep in a place of business, or expose, or keep for sale, or canvass for or receive or solicit orders for, or directly or indirectly or upon any pretence or by any device, sell or barter, or offer to sell or barter, or in consideration of the purchase or transfer of any property or thing, give to any other person, any intoxicating liquor ; and the word "sale" means the act of selling in any one of the manners herein above defined ;

No authorised vendor shall have his place of business for the purpose of the Quebec Prohibition Law, in any municipality where a prohibitory by-law is in force on the date of the coming into force of this Act, unless the municipal council of such municipality has given its consent thereto by resolution.

The sale of perfumes, lotions, tinctures, essences, medicinal or pharmaceutical preparations containing alcohol is permitted, provided there is sufficient medication therein to prevent their use as an alcoholic beverage.

Licences may be issued allowing persons to keep in an approved liquor warehouse such liquor as they may have in store on the day of the expiry of their former licence, and to sell the same to persons in other provinces or in foreign countries, duly authorised to purchase the same, or to authorised liquor vendors.

Representatives of foreign manufacturers of, or dealers in, intoxicating liquors must take a licence to sell in the Province.

Penalties are provided for the violation of the various provisions of the Act, and the Quebec Licence Act is modified so as to correspond with the Prohibition Act.

By referendum, the electors of the Province were, in April 1919, asked to vote on the following question :

"Is it your opinion that the sale of light beer, cider, and wines, as defined by law, should be allowed ?"

The vote was in the affirmative.

Succession Duties.—Further provisions make the payment of succession duties a condition precedent to transfer of property, and require a certificate from the collector of succession duties, establishing that succession duties have been paid, or were not due.

Inspection of Stallions.—By c. 27 a Stallion Inspection Board is created, of which the secretary of the Council of Agriculture shall be *ex officio* secretary. Inspectors may be appointed by the Minister of Agriculture, who shall fix their remuneration. They will inspect stallions under the direction of the Board. After January 1, 1920, no owner or possessor of a stallion may offer it for use or use it in serving mares belonging to other persons, without a permit from the Inspection Board.

The Board shall classify stallions so as to inform the public of their value; keep a register containing the description and classification of stallions, the name of their owner or possessor, and any other necessary details; it may grant or refuse permits for serving. The owner or possessor of a stallion who is not satisfied with the inspection may appeal to the Board, upon depositing the amount of the cost of a new inspection, which shall be final.

Violation of this Act may be punished by penalty not exceeding fifty dollars, and on failure to pay the same, by imprisonment not exceeding forty days.

Bird Sanctuaries are created, two in number, within the limit of which it is forbidden to kill, capture, take, injure, or molest certain species of birds.

Technical Schools are incorporated in the cities of Sherbrooke, St. Hyacinthe, and Hull, and each of those municipalities is authorised to contribute thereto ten thousand dollars annually, and to borrow for such purpose if necessary.

Child Labour.—Boys and girls under sixteen, who cannot read or write fluently, must not be employed to perform certain work, and their employer incurs a penalty. They are likewise forbidden to sell newspapers in public places.

Inmates of Lunatic Asylums.—If a committee has not been appointed at any time, the medical superintendent is put in charge of their property.

Municipal Affairs.—A somewhat lengthy statute contains a few provisions calculated to protect municipalities against the recklessness of their councils. For instance, when a council contracts a loan, it must, under the statute, provide for a sinking fund sufficient to redeem such loan at maturity, and the interest shall at no time exceed 6 per cent. Unless any previous authorisation has been granted by the Minister of Municipal Affairs, a municipal corporation can only sell its bonds by competition, tenders having been called for by advertisements in the Quebec official *Gazette*, and taken into consideration at a public sitting of the municipal council or of one of its committees. No municipality other than Montreal or Quebec can henceforth give out or pass a contract for construction or improvement works, unless the by-law authorising same has provided for the appropriation of the moneys required for paying the cost thereof. If the corporation has not in its general funds or otherwise appropriated, the amounts required for this purpose, the by-law must provide for the imposing of a special tax upon the whole municipality or upon the proprietors liable for the costs of such work, as the case may be.

Contracts entered into contrary to these provisions shall be void

and shall not bind the corporation, and any ratepayer may by injunction prevent the execution of the work. Each member of the council infringing these provisions shall be liable to a fine not more than five hundred dollars. The foregoing rules do not apply to contracts entered into to obey an order of the Board of Health, nor to cases otherwise provided for by law; and in cases of urgency the Lieutenant-Governor may allow a municipal council to derogate from the above provisions.

Notwithstanding any general or special law to the contrary, no municipality shall hereafter subscribe for shares in industrial or commercial companies, give or lend money thereto, give it the use or ownership of real estate, or guarantee any sum of money borrowed. It may, however, grant such companies exemption from taxation.

Manufacture of Bread.—All bread sold or made for sale within the limits of the Province—the City of Quebec excepted—shall be made of good, wholesome flour, and be baked in loaves of twelve ounces or multiples thereof, and it must be of one of the weights aforesaid eight hours after having been baked.

Places of Amusement.—A duty of from two to ten cents is imposed upon every admission to a place of amusement, including every theatre, music or concert hall, circus, skating-rink, exhibition, etc., save only race-meetings. Part of the duty so collected is appropriated to hospitals and charitable institutions.

Monuments to Soldiers.—Every municipality is allowed to borrow money for the purpose of erecting a monument to the memory of the Canadian soldiers who died during the war. Such loans are subject to the general law, except that they may be made repayable at a term of forty years.

Voluntary Winding-up of Companies.—The voluntary winding-up of a company may be stopped by two-thirds of the shareholders passing a resolution to that effect, and having their action approved by the judge, after notices to the liquidators, creditors, and shareholders. Notice of such resolution and its approval shall be registered, forwarded to the Provincial Secretary, and published in the official *Gazette*. The approval of the resolution by the judge puts an end to the powers of the liquidators, but the acts performed by them are valid, and are continued by the company in the usual way.

Expropriation for Water Power Purposes.—Except in cities, towns, and villages, when a lot or part of lot may be expropriated, expropriation for the purpose of obtaining water power may be confined to the actual space required for putting up the poles or towers, with an easement giving the right to place same, and wires or other apparatus accessory thereto.

Workmen's Compensation Act.—The parents of a deceased workman are now entitled to compensation, not only when deceased was their sole support, but when he was their principal support as well. In the calculation of the yearly earnings of workmen receiving fixed wages, they shall not be bound to take into account any remuneration received for overtime work.

Proof of Death of Soldiers.—It is enacted that a certificate in writing, signed by the Director of Pay and Record Services of the Canadian Overseas Expeditionary Forces, or by the Director or other head of the Record Office at the Military Headquarters, Ottawa, or by any other officer designated by the Governor-General of Canada in Council for that purpose, stating that the person named in the certificate was a member

of the Canadian Expeditionary Forces, and died while overseas, shall establish, until proof is made to the contrary, the death of such person, for all purposes to which the authority of the Legislature of this Province extends.

Organisation of the Civil Courts.—Somewhat sweeping changes were introduced by a law enacted March 17, 1919. Such law, however, by its terms, was not to come into force except by proclamation of the Lieutenant-Governor. Such proclamation did not take place, and on February 17, 1920, the law was repealed and replaced by another slightly different in form, but substantially similar. The main changes introduced by the law of 1919, which were reproduced in the repealing Act, are the following:

1. Abolition of the Court of Review, which was a tribunal composed of three judges of the Superior (trial) Court, sitting as a Court of Appeals of final jurisdiction in all matters not exceeding five hundred dollars in value. The appellant had an option between the Court of Appeals and the Court of Review, an appeal from the latter to the former being allowed when the judgment of the trial court was reversed.

2. Increase in the personnel of the Court of Appeals being now in charge of all appeals from the Superior Court. The number of its judges is increased from six to twelve. Four judges being selected from the ranks of the Superior Court, judges of the district of Montreal, and two from the ranks of the Superior Court judges of the district of Quebec. The personnel of the Superior Court is thereby reduced by six judges.

3. Transfer of criminal cases from the Court of Appeals to the Superior Court. Heretofore, in the cities of Montreal and Quebec, criminal assizes were presided over by judges of the Court of Appeals. This work will now be taken up by Superior Court judges.

4. Centralisation of Superior Court judges and organisation of Circuits. All judges must hereafter reside in or near the cities of Montreal or Quebec, the cities of Three Rivers and Sherbrooke alone having two resident Superior Court judges. The other judges heretofore residing in smaller cities or towns will be transferred to Montreal or Quebec, and go on circuit, as directed by the Chief Justice or acting Chief Justice.

Procedure.—The above changes necessitated a number of amendments to the Revised Statutes and to the Code of Procedure.

Soldier's Affidavit.—Affidavit made outside of the Province by any member of the Canadian Expeditionary Forces may be received by a colonel, lieutenant-colonel, major, or captain also attached thereto.

Municipal Code.—Several amendments to the Municipal Code are introduced: the most important of which requires any mayor or councillor to own real estate in the municipality, of the value of four hundred dollars.

10. SASKATCHEWAN.

[Contributed by R. W. SHANNON, ESQ., K.C.]

Acts passed: Public—91; Private—10.

Succession Duty (No. 13).—The rate of duty payable was based formerly on the gross value of the estate and chargeable on the net value. Now both the rate of duty and the amount payable are ascertained from the net value of the estate. To counterbalance the reduction in revenue

consequent upon this change, a small graduated duty has been imposed on estates between \$10,000 and \$25,000, which were hitherto exempt, and the general rates are raised.

Arbitration.—No. 20 is a revision and consolidation of the Arbitration Act, containing certain new provisions. An arbitration to which His Majesty is a party is brought within the scope of the Act, and procedure is laid down for an appeal from an award where this is provided for in a submission. Schedules B and C to the Act set forth the maximum fees for attendance and services which may be charged by professional and non-professional arbitrators, and provision is made for the taxation of costs on the application of either party.

Loan Companies (No. 22), a new measure, follows the outline of the Dominion statute on this subject and contains ample provision regarding the incorporation, organisation, management, and powers of a loan company, while a model Bill is provided by Schedule A, the procedure for incorporation still being by way of private Bill.

Proportional Representation.—By an amendment (No. 23) to the City Act, city councils are given power to submit to the electors a by-law providing for the election of the mayor and aldermen according to a system of proportional representation to be set forth in the by-law.

Vocational Education.—The board of trustees of town and high school districts are given power, by No. 42, with the approval of the Minister of Education, to provide for the vocational or technical training of adolescents and adults, either in connection with the day schools or as evening classes, and the Act provides for the appointment annually of a vocational education committee to assist in the establishment and management of classes.

Education of Soldiers' Dependent Children.—A commission, to be known as "The Commission for the Education of Soldiers' Dependent Children," is established by No. 43. The commission has full power and exclusive jurisdiction to deal with all matters relating to this subject. Those entitled to assistance must have reached the age of sixteen years, and be children of deceased or disabled soldiers on whose behalf a pension allowance has been made.

Dairy Products.—The Dairy Products Act (No. 46), which repeals the Dairymen's Act, is practically a new measure providing for the issue of licences to owners and managers of creameries, buying stations, cheese factories, dairies, and ice-cream plants, and dealing with the inspection of these places, sanitation, the grading of dairy produce, and the sampling, testing, and purchasing of milk and cream. The Act prohibits buyers of milk, cream, or butter-fat from discriminating between different districts by paying a higher price for these commodities in one district than in another.

Produce Commission Merchants.—No. 51, a new measure, describes a produce commission merchant as a person who, by himself or his clerk, servant, or agent, as his principal business, receives produce for sale either on commission or for account or credit of the consignor. These persons must obtain licences before commencing business, and must keep proper books containing records of all their transactions. Detailed reports of sales must be mailed to consignors within five days after a sale, and a dissatisfied consignor may make a written complaint to the Department of Agriculture.

Purchase and Sale of Eggs.—The Egg Marketing Act (No. 52), another

new measure, requires every person who receives eggs for sale on consignment from producers, or purchases eggs from producers for sale by retail or wholesale, to provide and maintain a suitable place for candling, to candle all eggs offered to him, to keep records of candling, and to place a candling record in every case of candled eggs. A description is given of the circumstances under which an egg is to be deemed unfit for human food, and the purchase and sale of such eggs are forbidden. Power to issue licences is given to the Minister of Agriculture.

Bureau of Labour and Industries.—Formerly this bureau, under the style of "The Bureau of Labour," was a branch of the Department of Agriculture, but, with the addition to its title, it now has the status of a department, under the control of a commissioner. *Inter alia* it is the duty of the bureau to collect, assort, systematise, and publish information and statistics relating to the natural resources of Saskatchewan and their industrial possibilities, and other matters relating to the industrial development of the Province. To the bureau is assigned the administration of the following Acts; namely, the Factories Act, the Building Trades Protection Act, an Act to provide for the Safety of Electrical Workers, an Act respecting Employment Agencies, the Mines Act, and the Minimum Wage Act.

Temperance.—No. 70 amends and consolidates the law on this subject. A commission is appointed which has the control of all liquor brought into and sold in the Province by wholesalers. Only such persons as are authorised to do so by the Lieutenant-Governor in Council may sell liquor by wholesale. Druggists must obtain permits to sell liquor as a medicine, furnishing the commission with an inventory of all liquors in stock and of those ordered but not received. An order by a druggist to a wholesaler must be submitted to and receive the approval of the commission. The maximum quantities of liquors which a druggist may have in stock are specified, and provision is made for monthly returns, giving details of all sales during the month. In certain cases, where there are no drug stores, physicians may obtain permits to sell liquor for medicinal purposes, and here again the maximum quantities which may be kept are laid down and monthly returns of sales called for.

Infants.—An Act to amend the Infants Act (No. 77) makes some important changes regarding custody and guardianship. The mother is now custodian of her infant children until they attain the age of fourteen. On the death of the mother or on a child attaining the age of fourteen, the custody belongs to the father. The father, as well as the mother, may now make an application to the court regarding custody and right of access. Formerly the father only might, by deed or last will and testament, dispose of the custody, but now the surviving parent has this power. A new section provides that, on the death of the father, the mother shall be sole guardian until the infant attains the age of fourteen, and that thereafter the mother shall act either alone, where no guardian has been appointed by the father, or jointly with any guardian appointed by him.

Absconding Debtors.—An Act respecting absconding debtors (No. 81) is a reproduction of the rules of court on this subject.

Attachment of Debts.—The same remark applies to an Act (No. 82) respecting the Attachment of Debts, which embodies also the provisions of an Act respecting the Exemption of Wages from Attachment, Chapter 81 of the statutes of 1918-19.

Legitimation by Subsequent Marriage.—Hitherto the law of this Province has been the law of England under which there is no provision for the legitimation of children born out of lawful wedlock. By this Act (No. 83) it is provided, in substance, that if the parents of a child heretofore or hereafter born out of lawful wedlock have heretofore intermarried or shall hereafter intermarry, the child shall for all purposes be deemed to be and to have been legitimate from the time of birth. Nothing in the Act is to affect any right, title, or interest in or to property if such right, title, or interest has vested in any person:

(a) Prior to the passing of the Act in the case of any such intermarriage which has heretofore taken place, or

(b) Prior to such intermarriage in case it takes place in the future.

Revised Statutes of Saskatchewan, 1920.—A commission was appointed in December 1917 to revise and consolidate the statutes of the Province, the last consolidation having been made ten years ago and brought into effect by proclamation early in the year of 1911. The commissioners completed their labours, and the Revised Statutes were ready for adoption by the Legislature at its next session.

II. NEWFOUNDLAND.

[Contributed by the HON. W. R. WARREN, K.C., *Minister of Justice.*]

Legislation.—C. 1 extends the term of the Legislature then sitting, and provides that a General Election shall be held not later than November 10, 1919.

Aircraft.—C. 5 empowers the Governor in Council to enter into a contract with the Aircraft Manufacturing Company, Limited, whereby the Company agrees to establish and operate a fully equipped and efficient aerial service for the carriage of mails, passengers, and freight within, to, and from the Colony, upon such routes as may be agreed upon between the Government and the Company.

Telephones.—C. 6 authorises the Governor in Council to enter into a contract for the establishment of a proper telephone service in the town of St. John's, with long-distance connections.

Municipalities.—C. 9 refers to the municipal affairs of St. John's, and especially gives the Municipal Council power to control the development of land, and to collect the cost of improvements made on the opening up of streets.

Housing.—C. 10 is the result of what is known as the "housing problem," and forbids the rent of dwelling-houses to be unfairly increased, and prohibits the ejectment of tenants who pay their rent, unless the premises have been sold to a *bona fide* purchaser intending to dwell there, or on some other ground to be adjudged just and reasonable by the Court.

Franchise.—C. 15 adds to those qualified to vote at the General Election in Newfoundland any returned soldier, whether of the age of twenty-one or not.

Minister of Justice.—C. 18 provides that whenever the Minister of Justice shall be absent from Newfoundland the Deputy Minister of Justice shall be entrusted with the powers which belong to the Minister of Justice, including his powers and duties as Attorney-General.

Evidence.—C. 21 enables proclamations, orders, or regulations made

by the Governor in Council, or under the authority of any Minister of the Crown, or the head of any department of the Government, to be proven by the production of a copy of the *Royal Gazette* containing such proclamation, order, or regulations, and permits any person authorised by law to administer an oath to receive a solemn declaration instead of an oath.

Second-hand Stores.—C. 24 puts into the hands of the Inspector-General of Constabulary power to license stores for the sale of second-hand goods.

Coal.—C. 25 enables the Government to enter into a contract with the St. George's Coal Fields, Limited, for the development of certain coal areas in the Colony belonging to the Company, and specially provides for the granting to the Company of Crown Lands for rights-of-way for railways and for shipping terminals, for free entry for machinery and materials, exemption from taxation, and the granting of a bonus not to exceed \$1 per ton upon all coal sold to consumers within the Colony.

Timber.—C. 26 enables the Governor in Council to grant licences permitting the exportation of round timber previously barked and sawn square at both ends, the diameter at the larger end of which does not exceed six inches: provided the licensee owns and operates in the Colony (a) a pulp or paper mill on which at least \$200,000 has been expended; and (b) a saw mill of a capacity of not less than five thousand feet per day, which mill is used in preparing pulp wood for the said pulp or paper mill. The licensee is to pay an export duty of \$1 per cord.

Insect Pests.—C. 28 gives the Governor in Council power to make regulations to prevent the introduction or admission into Newfoundland, or the spreading therein, of any insect pest or disease destructive to vegetation, and gives plenary powers to the Minister of Agriculture and Mines for the carrying out of the Act.

Rabies.—C. 30 empowers the Governor in Council to make regulations to prevent the introduction of rabies into Newfoundland.

Beavers.—C. 34 extends the close time for the killing of beavers until 1920.

Pensions.—C. 38 amends the War Pensions Act, 1917, and provides for a Board of Commissioners with power and exclusive jurisdiction to consider, administer, and deal with all pensions, allowances, and gratuities to members of the forces, their wives, widows, children, and dependents.

Insurance.—C. 41 amends the Insurance Companies Act, 1906, and provides that no company shall give any rebate of premiums as an inducement to insure, and every company shall deposit with the Minister of Finance and Customs a copy of its established rates for all plans of insurance. No company shall issue in Newfoundland any estimate of dividends or shares of surplus expected to be received in respect of any policy issued by such company.

Notes.—C. 42, entitled "The Newfoundland Notes Act," provides that Newfoundland bank notes may be issued and outstanding at any time to any amount. Such notes shall be legal tender in every part of Newfoundland. Provision is made for security in the redemption of Newfoundland notes up to and including one million dollars, by the holding by the Government of an amount equal to not less than 25 per cent. of such notes in gold, or in gold and securities, the principal and interest of which are guaranteed by the Government of the United

Kingdom, or of the Dominion of Canada, the Commonwealth of Australia, or the United States of America, and the Governor in Council is empowered to raise by way of loan any sum of money necessary to pay such notes, if the amount held as security is not sufficient.

Business Profits.—C. 43 extends the provisions of the Business Profits Tax Act until December 31, 1919, and provides that all Fire Insurance Companies shall pay a tax of 5 per cent. on their gross premium income.

12. BERMUDA.

[Contributed by the HON. SIR REGINALD GRAY, K.C.]

Acts passed—39.

Alien Corporation.—Act No. 2 authorised the West India Oil Company, incorporated in New Jersey, U.S.A., to acquire land and construct tanks for the storage of petroleum, and, with the previous sanction of the Governor in Council, to lay pipes on the foreshore and in the bed of the sea to a sufficient distance seaward to enable oil to be received from supply ships and to be supplied to ships needing petroleum fuel.

Criminal Law.—Act No. 3 prescribes a more comprehensive form of caution to be given by a Justice of the Peace under the Indictable Offences Act, including an intimation to the accused of his right to be called as a witness for the defence and to give evidence on oath.

Government Control.—Act No. 5 vested temporarily in the Governor certain extraordinary powers with a view to the suspension of martial law, including the control of the landing here of aliens or undesirable immigrants, and the censorship of postal matter and newspaper publications.

War Indemnity.—Act No. 7 exempted all persons from legal proceedings in respect of acts done here under the authority of Martial Law, from August 4, 1914, to the date on which Martial Law was suspended here.

Criminal Law.—Act No. 12 made an important amendment by making the depositions before the committing justice of a witness who is absent from the Colony at the trial in the Supreme Court admissible in evidence in the same manner as if he were dead or too ill to attend.

Injuries of Public Officers.—Act No. 15 makes, for the first time, provision for the payment of the medical, surgical, or hospital expenses incurred by any public officer by reason of any personal injury caused by accident or misadventure arising out of and in the course of his public employment.

Police.—Act No. 19 provides for the entire reorganisation of the Police Force on an improved basis, which it is anticipated will add largely to its efficiency.

Alien Admission.—Act No. 22 prohibits the landing in the Colony without a permit of any "former alien enemy," interpreted as any person who is a subject or citizen of a State with which His Majesty was at war at any time during the year 1918. A suspect may be arrested under the Governor's warrant for examination as to his nationality, and his deportation may be ordered.

Steam Communication.—Acts Nos. 16 and 23 authorised the making of Contracts with Furness, Withy & Co., for the maintenance of a service

between Bermuda and New York for five years by two approved steamships, at a maximum annual cost to the Colony of £25,000, which is by far the largest annual appropriation ever made by the Legislature for this purpose.

Roman Catholic Corporation.—Act No. 25 constituted the present parish priest of the principal Roman Catholic Church and his successors in office a body corporate to hold and administer personal estate, and to hold land in the Colony purchased or acquired for the use of the said Church of a capital value not exceeding £20,000. Certain lands previously held in trust for various purposes were vested in the new Corporation on the same trusts.

War Pensions.—Act No. 30 is a comprehensive measure providing liberal pensions for discharged soldiers of the Bermuda War Contingents, and the widows and children and other dependents of deceased soldiers.

Stamp Duties.—The only previous Act on this subject was passed in 1917, imposing duties on cheques and receipts. Act No. 31 of 1919 imposes duties on various legal documents, including conveyances on sales, mortgages, etc., the rates of duty being considerably lower than those current in England.

III. AUSTRALASIA.

I. COMMONWEALTH OF AUSTRALIA.

[Contributed by G. S. KNOWLES, ESQ.]

Acts passed—32.

Alteration of the Constitution.—Two proposed laws for the alteration of the Constitution were passed during the year. A novel feature of the proposed laws was that they were to be of a temporary nature, remaining in force for the shorter of two periods; namely, for three years, or until a Convention, called together for the purpose, made recommendations for the amendment of the Constitution and those recommendations were accepted by the people. If no such Convention was constituted before December 31, 1920, they were then to cease to have effect. Both proposals were rejected by the electors.

The object of the first proposal was to give the Commonwealth Parliament power to legislate with respect to the nationalisation of monopolies. Somewhat similar proposals were passed in 1912 and 1915 (*Journal*, vol. xiv, p. 95), but there was an important difference between the 1919 proposal and the previous ones. Under the previous proposals legislation could not be passed in regard to any business until resolutions declaring the business to be a monopoly had been passed by an absolute majority of both Houses of Parliament. Those safeguards were included in the 1919 proposal, but an additional condition was imposed; namely, that both Houses should first refer the measure to the High Court, and that a report from a justice of the High Court should be submitted to Parliament before the final resolutions were passed.

The second proposal dealt with the powers of the Commonwealth Parliament to legislate with respect to Trade and Commerce and other matters. It was proposed to give the Parliament power to legislate

with respect to Trade and Commerce generally—not merely with respect to “Trade and Commerce with other countries and among the States.” State Railways, however, were expressly excluded. It was also proposed to enlarge the power to legislate with respect to corporations, express power being taken to make laws regarding the dissolution, regulation, and control of trading corporations. The Industrial Arbitration power was to be enlarged, and a new paragraph added to s. 51, empowering the Commonwealth to legislate with respect to trusts, combinations, and monopolies in relation to the production, manufacture, or supply of goods, or the supply of services or the ownership of the means thereof.

Commercial Activities.—During the war the Government made arrangements relating to the sale and disposal of wool, sheepskins, dairy produce, and wheat, and the encouragement of flax production. It also fixed the price of sugar, and made certain agreements in regard to the supply of sugar. The Commercial Activities Act (No. 3 of 1919) provides for the withdrawal of Governmental control in regard to those matters. Most of them are dealt with by regulations made under the War Precautions Act, and those regulations are to cease to operate on the prescribed date, which varies in different cases, but in no case is later than December 31, 1920. The Committees established to deal with the wool, sheepskins, dairy produce, and flax industries may, however, after the prescribed date, exercise the powers conferred on them by the regulations so far as is necessary for winding up the operations of the Committees. In the case of wheat, action was not taken under the War Precautions Act, but legislation was passed by the various States. The Act validates agreements, etc., made by the Prime Minister on behalf of the Commonwealth in connection with the wheat scheme, and authorises the making of arrangements for the transportation and marketing of the harvests for 1918–1919 and 1919–1920.

Customs.—The Customs Tariff Validation Act (No. 17 of 1919) and the Excise Tariff Validation Act (No. 18 of 1919) validate, respectively, the proposed duties of customs and the proposed duties of excise introduced into the House of Representatives during the 1917–19 session.

Deceased Soldiers' Estates.—The Deceased Soldiers' Estates Act (No. 23 of 1919) amends the Act of 1918 (*Review of Legislation*, 1918, p. 36), and extends its provisions to soldiers killed before the commencement of the Act. It also enables regulations under the Act to have effect from the date of the commencement of the Principal Act.

Divorce.—The Matrimonial Causes (Expeditionary Forces) Act (No. 15 of 1919) applies to the Commonwealth the Imperial Act known as the Matrimonial Causes (Dominion Troops) Act, 1919.

Electoral.—The Commonwealth Electoral Act (No. 31 of 1919) amends the Act of 1918 (*Review of Legislation*, 1918, p. 37), introduces the system of preferential voting in Senate elections, and extends the provisions of the Principal Act relating to postal voting. The system of absent voting has been somewhat restricted in consequence of the fact that under the system of preferential voting it is necessary to have the actual ballot-papers at the scrutiny. Consequently, absent voting is not permitted where an elector is outside his own State, but the system of postal voting has been extended to cover those cases. Voters must mark preferences for twice the number of candidates to be elected plus one, e.g. where three senators are to be elected preferences must be shown for seven candidates. Voters may, however, mark additional

preferences for as many candidates as they please. The counting of votes is done by the Assistant Returning Officers and Divisional Returning Officers. Each Divisional Returning Officer notifies the result of the count for the Division to the Commonwealth Electoral Officer by telegraph or in some other expeditious manner, and the Commonwealth Electoral Officer makes up the total for the State from those figures, and instructs the various Divisional Returning Officers in regard to further counts and the exclusion of candidates. If a candidate obtains an absolute majority of votes on the first count he is declared elected. If no candidate has an absolute majority, the candidate having the fewest votes is excluded and his votes counted to the candidates for whom next preferences are shown on the ballot papers. This process of exclusion is continued until one candidate has an absolute majority. That candidate is then declared elected. All the votes are then recounted for the purpose of filling the second vacancy, and in this count the votes polled to the elected candidate are counted to the candidates for whom next preferences are shown on the ballot-papers. If on this count the vacancy is not filled, the candidate having the fewest votes is excluded, and the counting proceeds in the manner described in connection with the filling of the first vacancy. The same procedure is followed until all the vacancies are filled.

In consequence of the introduction of the preferential system for Senate elections the provision relating to the forfeiture of deposits has been amended. It is now necessary for a candidate for the Senate to obtain one-tenth of the average number of first-preference votes polled by the successful candidates.

The Commonwealth Electoral (War-time) Act (No. 29 of 1919) amends the Commonwealth Electoral (War-time) Act, 1917 (*Review of Legislation*, 1917, p. 55). The Principal Act, as amended, now extends to referendums held while the Act is in force. The provisions of the Principal Act enabling soldiers and sailors outside Australia to vote have been repealed, but the special privileges of those persons with respect to voting in Australia are retained, and, in the case of those soldiers and sailors returning to Australia on the eve of an election, added to.

The provisions in the Principal Act relating to the death of candidates and to the filling of casual vacancies in the Senate are repealed.

There are also amendments consequential on the passing of the Commonwealth Electoral Act, 1918.

The Referendum (Constitution Alteration) Act (No. 14 of 1919) makes extensive amendments to the Referendum (Constitution Alteration) Act, 1906-15, most of which were rendered necessary by the passing of the Commonwealth Electoral Act, 1918. The Act also amends the provisions of the Principal Act relating to the preservation of ballot-papers. They must now be preserved until the referendum can no longer be questioned, and in any case until six months after the publication of the results in the *Gazette*. The Act also extends the provisions relating to bribery and intimidation to cases where the bribe is given or intimidation practised to induce the elector to support or oppose a proposed law, and makes it an offence to use violence or cause damage to an elector because of the manner in which he exercised his vote.

Financial.—The Income Tax Act (No. 9 of 1919) is in the same terms as the Act of 1918 (*Review of Legislation*, 1918, p. 39). No new income tax was imposed in 1919.

The Land Tax Act (No. 10 of 1919) applies the super-tax imposed by the 1918 Act (*Review of Legislation*, 1918, p. 39), to assessments for the financial year beginning on July 1, 1919.

The Entertainments Tax Act (No. 11 of 1919) alters the incidence of the tax, which is now payable in accordance with the following scale: Tax when payment for admission (excluding the amount of tax) does not exceed fivepence for the admission to a continuous place of entertainment of persons apparently over the age of sixteen years, one halfpenny; not exceeding sixpence, one halfpenny; exceeding sixpence, but not exceeding one shilling, one penny; exceeding one shilling, one penny for the first shilling and one halfpenny for every sixpence, or part of sixpence, by which the payment exceeds one shilling (cf. *Review of Legislation*, 1918, p. 40).

The Loans Securities Act (No. 25 of 1919) gives power to depart from the conditions laid down in Commonwealth Acts for borrowing moneys, and will enable the Commonwealth in borrowing money outside Australia, e.g. in England, to comply with such other conditions as are necessary.

Invalid and Old-age Pensions.—The Invalid and Old-age Pensions Act (No. 22 of 1919) increases the pension payable under the Principal Act from 12s. 6d. per week to 15s. per week.

Land, Mining, Shares, and Shipping.—The Land, Mining, Shares, and Shipping Act (No. 27 of 1919) continues in operation, until December 31, 1920, the regulations made under the War Precautions Act dealing with those matters. The regulations dealing with land prohibit the transfer of land to enemy subjects absolutely, and to naturalised persons of enemy origin without the consent of the Attorney-General. Those relating to mining prohibit the acquisition by aliens of interests in mines except with the consent of the Attorney-General. The regulations dealing with shares place certain obligations upon enemy subjects and naturalised persons of enemy origin who hold shares in Australian companies, and provide for the transfer of shares in certain cases to the Public Trustee, who has power to sell them. The regulations relating to shipping place the control of practically all Australian ships in the hands of a Shipping Controller.

Legal Proceedings.—During the war certain legal proceedings could not be brought without the consent of the Attorney-General. The Legal Proceedings Control Act (No. 30) prohibits the bringing, after the war, of actions to which the Attorney-General's consent has been refused, and continues the requirement in regard to actions to which it would have applied at the date of commencement of the Act. Prior to the commencement of the Act the prohibition rested solely on certain regulations made under the War Precautions Act, and would, but for the Legal Proceedings Control Act, have ceased to operate on the expiration of the War Precautions Act. The following are some of the actions referred to: Certain actions on contracts relating to wheat and flour; actions against companies removing enemy influence; actions in respect of dividends paid to the British Public Trustee; actions on certain contracts where performance has been interfered with by the Commonwealth Shipping Board; libel and slander proceedings by persons alleged to be enemy subjects; proceedings for refusal to employ or work with persons alleged to be enemy subjects.

Lighthouses and Marine Marks.—The Lighthouses Act (No. 6 of 1919)

imposes duties and liabilities upon certain persons where lighthouses or marine marks are damaged or destroyed. The fact must be reported to a Collector of Customs, and the person causing the damage or destruction, or, in the case of a ship, the master, owner, agent, or charterer, is responsible for the cost of repairing or replacing the lighthouse or mark, unless he proves that the damage or destruction was not caused through wilfulness, negligence, misconduct, or want of skill.

Moratorium.—The Moratorium Act (No. 2 of 1919) makes provision for the gradual removal of the restrictions imposed during the war in regard to payments due under mortgages and certain other agreements. Those restrictions were imposed by two series of regulations made under the War Precautions Act; namely, the War Precautions (Moratorium) Regulations and the War Precautions (Active Service Moratorium) Regulations, the former dealing with mortgages, etc., in which the general public were interested, the latter with cases which concerned soldiers and their dependents. Those regulations would have terminated respectively three months and six months after the termination of the war, and money due under mortgages, etc., subject to those regulations, would have then become payable immediately.

The two series of regulations are dealt with separately. The War Precautions (Moratorium) Regulations were continued in force until July 31, 1920, but in cases where a Court had allowed an extended time for repayment the regulations continued to apply until that time had elapsed. In regard to the repayment of principal money, the following provisions were to apply:—

Where a payment was due apart from the regulations, before January 1, 1915, it must be paid in February 1920; payments which were due in 1915 must be paid in March 1920; those due in 1916 must be paid in April 1920; and so on, the final month for repayment being July 1920.

In the cases of mortgages and agreements to purchase land given or made by soldiers, the War Precautions (Active Service Moratorium) Regulations provide for the postponement of the repayment or payment (as the case may be) of the principal sum due under the mortgage or agreement, until six months after the termination of the war as declared by Proclamation, or six months after the discharge of the soldier, whichever last happens. The operation of that provision, as well as others relating to such mortgages and agreements, is continued so long as there remains in force any mortgage or agreement to which the regulations apply. The War Precautions (Active Service Moratorium) Regulations also contain special provisions for the protection of dependents of members of the forces from distress in certain cases, and giving privileges to those persons in regard to rent and other matters. Those provisions are continued in force until all the Expeditionary Forces have been substantially demobilised.

Nauru Island Agreement.—The Nauru Island Agreement Act (No. 8 of 1919) approves the agreement made between the British, Commonwealth, and New Zealand Governments in relation to the administration and the working of the phosphatic deposits of Nauru Island.

Navigation.—The Navigation Act (No. 32 of 1919) amends the Navigation Act, 1912 (*Journ. Comp. Leg.*, xv, p. 27). It enables any part of the Act to be brought into force without proclaiming the commencement of the whole Act, and extends certain provisions to territories under

the authority of the Commonwealth, including territories governed by the Commonwealth under a mandate.

Trade Marks.—The Trade Marks Act (No. 7 of 1919) is an amending Act, and provides a remedy in cases of groundless threats of legal proceedings for infringements, but the section does not apply where the person making such threats proceeds with an action. The Act also empowers the Governor-General by proclamation to prohibit the use of any word or mark as a trade-mark or part of a trade-mark, and makes more effectual the restriction on the use of the Royal Arms or the Arms of the Commonwealth.

Termination of the War.—The Termination of the Present War (Definition) Act (No. 26 of 1919) is in substantially the same terms as the Imperial Act.

Treaty of Peace.—The Treaty of Peace Act (No. 20 of 1919) provides for the making of regulations for carrying out and giving effect to Article X. (Economic Clauses) of the Treaty of Peace with Germany.

War Service Homes.—The War Service Homes Act (No. 2 of 1919) extends the benefits of the Principal Act (*Review of Legislation*, 1918, p. 35) to munition workers and war workers. The latter term includes Australians who proceeded to Great Britain to engage in work for the Imperial Government as labourers, fettlers, or navvies. The Act of 1918 is also extended to cover the building of hospitals, sanatoria, and nursing homes for returned nurses, and the advancement of money for those purposes.

The amending Act also prohibits the unauthorised use of the words "War Service Homes," or similar words.

Wireless Telephony.—The Wireless Telegraphy Act (No. 4 of 1919) places the control of wireless telephony, as a means of communication, in the hands of the Postmaster-General.

2. NEW SOUTH WALES.

[It is hoped to publish the summary of legislation in the next volume.]

3. QUEENSLAND.

[Contributed by the HON. L. E. GROOM, M.A., LL.M., M.P., and
J. F. GAMBLE, Esq., B.A., LL.B.]

Acts passed—35.

Constitution.—The Constitution Act Amendment Act of 1919, No. 2 (10 Geo. V., No. 3) amends the Constitution by increasing the payments to Members of the Legislative Assembly, and to the Leader of the Opposition and the Chairmen of Committees in the Legislative Council and the Legislative Assembly.

Dairy Produce.—The Dairy Produce Act of 1920 (10 Geo. V., No. 15) consolidates and amends the law on that subject. An attempt is made to protect producers by prescribing the manner in which payment is to be made for cream supplied to butter factories (s. 16). Cream and butter supplied to or produced in factories must be graded, and the various grades must not be mixed (s. 17). Putrescent cream must not be used for making butter (s. 19). All packages containing dairy produce must be correctly labelled, and if repacked must be marked accordingly (s. 25).

Income Tax.—The Income Tax Act Amendment Act of 1920 (10

Geo. V., No. 35) provides (*inter alia*) for new rates of income tax. Companies are taxed on the basis of the percentage of profit made. If the profit does not exceed 6 per cent. the rate is 1s. 3d. in every £. For every 1 per cent. increase in the percentage of profit the rate of tax increases by 1½d. until it reaches 3s., which is the maximum rate. In the case of certain companies referred to as "public utility" companies and "monopoly" companies, the rate of tax increases by 3d. instead of 1½d. for every 1 per cent. increase of profit, and the maximum rate is 4s. in the £ (s. 4).

A deduction of £26 each is allowed in respect of a wife and certain relatives by blood or marriage, if maintained by the taxpayer (s. 8).

Workers' Homes.—The Workers' Homes Act of 1919 (10 Geo. V., No. 7) makes provision for the erection of homes for workers. A person engaged in any kind of work may obtain the benefit of the Act, provided that he does not already own a home and his income does not exceed £260 per annum (s. 2). Where there are several applicants for a home preference will be given to the applicant who has the least income or the more numerous family, provided he is of good character (s. 9). The purchasing price of a home must not exceed the cost to the Minister (s. 10), and the purchaser must pay a deposit equal to 5 per cent. of the purchase price (s. 11). On payment of this deposit the purchaser is entitled to take possession of the home and to the grant of a perpetual lease of the appurtenant land (s. 13), but this land must not be transferred, subdivided, or let, without the consent of the Minister, until the contract is fully performed (s. 14). In the meantime the purchaser is deemed to be a weekly tenant of the Minister, and must pay rent calculated in such a way as to provide for the payment of interest at 5 per cent., and the repayment of the principal in such period as the Minister determines, but not exceeding twenty years, except in special circumstances. Provision must also be included for expenditure on insurance and repairs (s. 16). The purchaser must insure his life and keep in operation an insurance in an amount sufficient to pay off the unpaid purchase money, but this provision may be waived by the Minister in special circumstances (s. 17). The Minister may refuse to consent to the transfer of a home until such conditions as he considers necessary to secure the payment of the balance of the purchase money have been complied with (s. 19). The Minister may cancel the contract if the home is abandoned (s. 20), or if the occupant proves to be a person of bad repute or from his habits or conduct is an undesirable neighbour (s. 23).

Crown Land.—The Discharged Soldiers' Settlement Act Amendment Act of 1920 (10 Geo. V., No. 21) limits the grant of Perpetual Town Leases or Perpetual Suburban Leases to discharged soldiers who are not already the owners of land of this character (s. 9), and requires the grantee to take up his residence on such land within a specified period (s. 10). The Act also provides for the making of advances, not exceeding £1,200, to discharged soldiers for the purpose of paying the purchase money in respect of the farms purchased or for paying off liabilities, making improvements, purchasing live stock, etc. Money may also be advanced in certain cases for the erection of dwellings. In this case the limit of advance is £500. The rate of interest varies from 3½ per cent. to 5 per cent. During the currency of an advance no person other than a discharged soldier can become the transferee of a holding, except by direction of the Minister in special circumstances (clause 11).

Landlord and Tenant.—The Fair Rents Act of 1920 (10 Geo. V., No. 31) is an Act to provide for the determination of fair rents for dwelling-houses. The Act applies to any dwelling-house which is subject to a lease (whether oral or in writing) made before or after the commencement of the Act. It applies within the localities from time to time appointed by Proclamation, and is expressed to bind the Crown (s. 3).

S. 4 provides for the establishment of Fair Rents Courts, under the jurisdiction of a police magistrate. Any lessor or any lessee who has paid or tendered all rent due may apply to the court to determine the fair rent of his dwelling-house. Any mortgagee interested in the property will be notified. The court may receive as evidence statutory declarations and may cross-examine in regard to such declarations. It may also summon witnesses and take evidence on oath or affirmation. Parties may be represented by agents, but not by counsel or solicitor unless all parties consent. The determination of the court comes into operation on a date fixed by the court, but in no case earlier than the date of the application, and where the rent is increased not earlier than fourteen days after the date of the determination (s. 5). The determination of the court is final (s. 6), and no costs are allowed in any proceedings under the Act (s. 7). In determining the fair rent the court must ascertain the unimproved value of the land and the value of the dwelling-house erected on it, *i.e.* the cost of the house to the owner up to the date of hearing, less a reasonable sum for depreciation. Ten per cent. on the total amount is to be taken as a fair rent except in special circumstances, when an increase may be allowed, but the rent must not be increased beyond that obtained on October 1, 1919 (s. 8). Where a house is let in parts the court must determine the fair rent for the whole and then determine the proportion to be borne by each portion (s. 9). Where houses are let furnished the court must determine the fair rent for the house, and must then determine, in its discretion, the amount of rent to be paid for the furniture (s. 10). The determination of the court remains in force for the period specified, but not less than six months nor more than three years. During this term no application for a variation of the determination can be made, unless substantial alterations or additions have been made. Any person who knowingly receives more than the rent determined is guilty of an offence (s. 11). After a lessee has applied for a determination of the court, provided the applicant duly pays his rent and otherwise complies with the conditions of his lease, the lessor cannot, during the pendency of the application nor for six months thereafter, demand any increased rent or take steps to terminate the tenancy, without the consent of the court (s. 12). Giving or receiving a bonus for a lease is declared unlawful (s. 13), and if the lessee duly pays his rent and otherwise complies with the conditions of his lease he is entitled to at least twenty-eight days' notice to quit if the lessor decides to determine the lease, and the court may, on application, extend this period (s. 14). No person can contract himself out of the benefit of the Act (s. 15). Threats against lessees making or prosecuting applications under the Act, attempts to boycott such persons, and attempts to otherwise penalise them are declared to be offences against the Act (s. 16). The Registrar of the court is authorised to obtain information in regard to rates without payment of any fee (s. 17), and any person may obtain from the Registrar, for the sum of 6*d.*, information as to the fair rent of any house as determined

by the court (s. 18). The maximum penalty for an offence against the Act is £50 (s. 19).

Liquor.—The Liquor Act Amendment Act of 1920 (10 Geo. V., No. 16) provides (*inter alia*) for a local option poll to be taken once in every three years. Three proposals will be submitted to electors, viz. (1) State management of the manufacture, importation, and sale of liquor; (2) Prohibition; and (3) Continuance of present system.

The preferential system of voting will be adopted, the voters marking their preferences for the different proposals.

The date of the poll must not be within sixty days of a State or Federal General Election. Provision is made, in the event of Prohibition being carried, for the sale of intoxicating liquor for medicinal purposes by chemists in cases where it is prescribed by a legally qualified practitioner. The sale of methylated spirit for purposes of fuel or power will also be permitted.

Mercantile.—The Profiteering Prevention Act of 1920 (10 Geo. V., No. 33) makes provision against the charging of unfair prices for certain commodities. The Act applies notwithstanding anything to the contrary in any Act, judgment, contract, or agreement, whether express or implied, oral or written (s. 2). Ss. 5–8 provide for the appointment of a Commissioner of Prices, and such inspectors, officers, clerks, and other employees as may be found necessary. The Commissioner will be subject to the direction and control of the Minister, and it will be his duty to report to the Minister from time to time in regard to various matters, such as the state of the prices of commodities in Queensland or any part at any time or times; the quantity, demand, supply, etc., of commodities; the means or sufficiency of supply or transport of commodities; the probable requirements of the people of Queensland or any part thereof; attempts at speculative dealings; what should be the maximum selling prices of any commodities under then existing conditions and circumstances, etc. (s. 9). He will have power to fix and declare the maximum price at which any commodity may be sold, and he may fix different prices for different qualities, or to meet differing conditions of trade (s. 10). He has also power to prohibit any increase on the then ruling prices for any commodity (s. 11). It is an offence to sell above the fixed price, or to refuse to sell at that price when a trader has more than a sufficient stock of the commodity to fulfil his orders. In the case of a wholesale trader the penalty is £1,000 or imprisonment for twelve months, or both. In the case of a retail trader it is £100 or imprisonment for three months, or both. Where a conviction is obtained the Court may award the purchaser, or the person offering to purchase, compensation for loss and inconvenience (s. 12). The Commissioner has also power to require returns of stocks of commodities (s. 13), and the Minister, acting on the report of the Commissioner, may seize and distribute commodities withheld from sale, paying therefor the declared price, less a reasonable amount to cover the cost of seizure and distribution (s. 14).

Part III. (ss. 15–19) deals with Combines. The following acts are declared to be offences: To give or offer concessions to any person on condition that he deals principally or exclusively with any person or persons or any commercial trust, or becomes a member of a commercial trust, or acts in obedience to the directions of a commercial trust, or complies with certain other conditions which are calculated to be contrary

to the public interest (s. 15); to refuse to supply any person because he has not complied or will not comply with any such conditions, or to so refuse in conformity with the directions of a commercial trust or association (s. 16); to monopolise, or attempt to monopolise, or conspire with others to monopolise, the supply of any commodity or the demand for any commodity in Queensland or any part thereof, if such monopoly or control is of such a nature as to be contrary to the public interest (s. 17); to sell commodities at prices fixed by a commercial trust or association (s. 18). The penalty for any offence against this Part is £1,000 or imprisonment for a period not exceeding twelve months, or both (s. 19).

The Commissioner or a Deputy Commissioner may summon witnesses and receive evidence by affidavit or on oath or affirmation. He is not bound by the rules of evidence, and may call in assessors to assist him if he considers it necessary. His decisions are not liable to be reviewed or restrained by any court (s. 20). He may commit persons to prison or fine them for specified offences similar to contempt of court, and may issue warrants to compel persons to attend before him (s. 21). The Commissioner may authorise an officer to enter and search premises and seize commodities, if he thinks an offence has been committed against the Act (s. 25). Penalties are imposed for offences such as obstructing officers (s. 26), giving false evidence (s. 27), bribing witnesses, destroying documents, etc. (s. 28).

Ss. 29-32 deal with procedure. Where an offence is committed by a company, the individual person guilty of the offence and the managing director or other manager of the company in Queensland are each liable to punishment (s. 29).

Mining.—The Mining Acts Amendment Act of 1920 (10 Geo. V., No. 27) amends various Acts dealing with mining. It provides (*inter alia*) for the establishment of rescue stations in the vicinity of mines in case of accident. The cost of these stations is borne in equal proportions by the Minister, the State Insurance Fund (Workers' Compensation Account), and the owners of the collieries (s. 14). The Act also deals with licences to search for petroleum.

Public Service.—The Public Service Acts Amendment Act of 1920 (10 Geo. V., No. 28) provides for the appointment of a Public Service Commissioner and Inspectors, and for a Board of Inquiry to investigate charges against officers, and a Board of Appeal to hear and determine appeals by officers against action taken by the Commissioner.

Stock.—The Stock Foods Act of 1919 (10 Geo. V., No. 8) regulates the sale of stock foods. Wholesale sellers must submit annually to the Under-Secretary of the Department of Agriculture and Stock samples of every prepared stock food in which they deal or propose to deal, and must declare its composition. They must also notify him of any change in its composition (s. 3). Buyers of stock food may demand invoices stating the materials of which it consists and the gross weight (ss. 6, 7). In order to ascertain that the provisions of the Act are being complied with, officers may enter premises where stock food is being prepared and take samples (s. 9). The Department will, on payment of the prescribed fee, analyse stock food for any buyer, and give him a certificate in regard thereto (s. 10). Penalties up to £100 or imprisonment for six months may be imposed for offences against the Act (s. 13).

4. SOUTH AUSTRALIA.

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During the Parliamentary Session of 1919 there were sixty Bills passed, all of which, with one exception, received the assent of the Governor, the exception being the Marine Board and Navigation Act Further Amendment Bill, which was reserved. In addition to this, the Matrimonial Causes Act Amendment Bill, which was reserved last session, and which was dealt with in the synopsis of the legislation passed in 1918, received the Royal Assent, and is now included in the volume of 1919 legislation.

Of these sixty Bills, three were merely formal Appropriation and Supply Acts, and twenty-five were measures of a purely administrative character, and of merely local interest. In pursuance of this State's policy of gradual consolidation of the Statutes two more consolidating measures—Acts relating to Administration and Probate and Friendly Societies—were passed during the session. Reference has been made in a previous review to the ease with which a consolidating Bill may be enacted under a new Joint Standing Order of the South Australian Parliament; an official assurance to a Joint Committee of both Houses that a Bill is a consolidation only (without any amendment of the existing law) is usually sufficient to ensure its passage through Parliament without discussion or delay. The thirty Acts just referred to are not dealt with in this synopsis.

War Measures.—The principal object of the Public Service Superannuation Fund Act Amendment Act (No. 1360) is to enable payments to be made out of the Public Service Superannuation Fund to the mother or other dependent of a male subscriber to the Fund who dies unmarried. Previously this could not be done. The Act is the result of a long controversy in the Public Service, which was brought to a head by a number of deaths on active service of young unmarried members of the Service, whose dependents, but for this Act, would have derived no benefit whatever from the deceased soldier's past subscriptions to the Fund.

The Commonwealth Advances for the Employment of Returned Soldiers Act (No. 1378) marks one of the steps taken to assist in the civil re-establishment of discharged soldiers. There are a number of discharged soldiers at present unemployed, who will eventually be absorbed by the labour market or have land provided for them under the Soldier Settlement Acts. This Act enables the provision of temporary employment by the carrying out by local governing bodies of local improvements with the aid of Commonwealth loan money. The Commonwealth advances the money to the State Treasurer, and he distributes it to the local bodies wishing to take advantage of the Act, the State remaining primarily liable for the repayment of the money to the Commonwealth.

The Discharged Soldiers' Settlement Act Further Amendment Act (No. 1388) provides for the compulsory acquisition by the Government of "large estates" for soldier settlement, and makes some minor administrative improvements in the existing Acts which experience has shown to be desirable.

"Large estate" is defined as land owned by the same owner of

which the aggregate unimproved value exceeds £15,000. The owner may select and retain for himself out of the estate, for the purpose of residence or business, or both, land in one block not exceeding the value prescribed by regulation, and if he himself has been on active service he may in addition retain land to the unimproved value of £10,000 ; or the owner may, if part of the estate is taken, require the whole to be taken.

Power is given to the Minister to make advances to a soldier for the purpose of discharging a mortgage over his land, or to pay off a debt incurred by him prior to his enlistment or on his behalf during his absence from the State. Pastoral lands are made available for allotment to discharged soldiers. Provision is also made for Crown lessees who enlisted to surrender their leases for leases embodying the special concessions made to soldiers. All instruments, including transfers, executed for the purposes of the Act are exempted from stamp duty.

The principal Act passed in 1915 empowered the Registrar of Probates, in his discretion, to remit the succession duty payable in respect of any property of any person who died on active service which passes to the widow, widower, or to any descendant or ancestor of the deceased, or, if duty has already been paid, to refund the duty. This provision embodied the principle of s. 14 of the English Finance Act 1900. The Succession Duties (Killed in War) Act Amendment Act (No. 1393) converts this discretion into a duty to remit or refund, as the case may be, and extends it to cover cases where the property passes to the brother or sister or intended wife or husband of the deceased. It is provided that in no case will the duty be remitted or repaid where the successor claiming the privilege is not domiciled in Australia. The Act will have a retrospective operation to the date of the passing of the principal Act, thus involving the repayment by the Government of all succession duty paid since the beginning of the war in cases where the Registrar of Probates exercised his discretion under the principal Act adversely to claimants.

The principal provision of the Irrigation and Reclaimed Lands Act Further Amendment Act (No. 1399) is that no licence for the sale of intoxicating liquor in an irrigation area is to be granted without the consent of the Minister. The provision is remarkable in that it superimposes the will of the Minister upon that of the Licensing Court, the body specially constituted to deal with such matters. The reason for the Act is that a great deal of the soldier-settlement work of this State lies in irrigation areas, and in the past the drink evil has increased the difficulties of the Soldiers' Land Settlement Department in these parts.

The Renmark Irrigation Trusts Acts Further Amendment Act (No. 1400) paves the way for the soldier settlement of Block E at Renmark, a piece of land very suitable for cultivation, and provides Government funds for its irrigation by the Renmark Irrigation Trust No. 1 already constituted there.

The Advances for Home Acts are the Acts under which the Housing Scheme of this State, both for civilians and discharged soldiers, is carried on, but of late years the amendments made have been chiefly for the purpose of granting special privileges to returned soldiers, and the parents or widows of deceased soldiers. This policy is continued by the Advances for Homes Act Further Amendment Act (No. 1408).

The amount which may be spent for the financial year 1919-20 on soldiers' homes is increased from £600,000 to £1,200,000.

Under previous Acts a discharged soldier who was a widower or a bachelor without dependents (unless he was contemplating marriage) and a discharged soldier who had seen no service overseas were, amongst others, excluded from the privileges conferred by the Acts on discharged soldiers. By this Act these privileges are extended to bachelors and widowers who are permanently incapacitated and dependent upon relatives for support, and also to discharged soldiers who, although they have not served outside Australia, have been discharged on account of physical disability incurred in connection with their military service, or have suffered pecuniary loss through their enlistment. At the same time the privileges under the Acts of a widowed mother of a deceased soldier are extended to a foster-mother, if such foster-mother has not received any payment or other consideration for having acted in that capacity.

By the amending Act of 1918 the Board of Trustees of the State Bank, the authority administering the Acts, were given power to acquire areas of land on their own initiative for the purpose of building homes for soldiers, and also to erect the houses ready for occupation. The homes might then be applied for by eligible persons. These powers are by the present Act extended so as to enable them to be exercised by the Board for the purpose of housing civilians as well as discharged soldiers. It was found that the exercise of the powers mentioned in favour of discharged soldiers only tended to their segregation in the community, with undesirable results. The extension of the powers of the Board in this regard is intended to hasten the absorption of ex-service men into the ordinary life of the community.

Financial.—In 1915 and 1916 increased stamp duties were imposed, and in both cases the tax was limited to the duration of the war and twelve months thereafter. This time limit on the operation of the tax is now repealed by No. 1374, thereby authorising the levying of the increased rates and new taxes indefinitely.

In the same way the increased land and income taxes imposed by the Act of 1918 only for the year 1918–19 are continued by the Taxation Act Amendment Act (No. 1411) up to and including the financial year 1921–22, and by the same Act a super-tax of 25 per cent. is added to all income tax for the year 1919–20. Similarly the motor vehicles tax, originally imposed in 1915 only for the duration of the war and twelve months thereafter, is now continued by No. 1311 until June 30, 1922.

The principal object of the Succession Duties Act Further Amendment Act (No. 1396) is to make liable to succession duty certain miscellaneous kinds of interests where the benefit accrues upon the death of some person without any consideration having been given for such benefit, and which are therefore true successions and taxable upon the same principle as ordinary legacies and similar benefits are taxable under the principal Act of 1893. The interests made taxable by the new Act are of such a nature as the following:

(a) The increase of benefit resulting to the owner of the fee simple of land by the death of the person in whose favour a rent charge for life has been created over the land, such charge having been created by non-testamentary disposition;

(b) The increase of benefit accruing to the survivor in a joint tenancy by the death of the other joint tenant; and

(c) An annuity, to the extent of the beneficial interest accruing on the death of the person who provided the annuity.

The Act also provides that where a remainder or other limited interest is taken in any property disposed of by will, deed of gift, settlement, or other similar disposition, the succession duty on that limited interest is to be paid out of the corpus of the property. This provision only applies, however, where there is no specific direction to the contrary contained in the will or deed disposing of the property.

Economic and Developmental.—The Control of Waters Act (No. 1358) is supplementary to the River Murray Waters Act 1915, and the immediate object of its enactment was to render it possible for the Government to carry out the obligations imposed by the Agreement ratified by that Act, which was made in 1914 between the Commonwealth and the States of New South Wales, Victoria, and South Australia. The Act under consideration applies at present only to that portion of the River Murray situate between Mannum and the eastern boundary of the State, *i.e.* to about two-thirds of the course of the river in South Australia, but its application may be extended to any other watercourse by proclamation. "Watercourse" is given a wide definition.

The main purpose of the measure is set out in s. 4: "The property in, and the right to the use and flow and to the control of, the water in any watercourse to which the Act applies shall . . . vest wholly in the Crown," subject to rights existing or granted by the Act. A right acquired by uninterruptedly taking water over a long period of years is not to be deemed an "existing right."

It is made an offence to pollute or interfere with the water in any watercourse to which the Act applies, or to take or divert any such water without authority, but an exception is made in favour of a riparian owner or occupier, who may take, free of charge, water for "domestic purposes." The term "domestic purposes" is defined as including, in addition to its ordinary meaning, the watering of stock and the irrigation of a garden not exceeding one acre in extent. If, in the case of any land hereafter alienated, the boundary is formed by a watercourse, the banks and beds of such watercourse remain the property of the Crown, but the owner of the land has a right of access to them for grazing and cultivation and has a remedy for trespass thereto. Provision is made by the Act for cases where private owners of land on the banks of the River Murray make levees or embankments for reclamation purposes too close to low-water mark, with the result that the natural flow of the water in the river is restricted, and the water banks up and sometimes damages levees and embankments higher up the stream which have been constructed by the Government or by private owners. The permission of the Minister will, in future, have to be obtained before a private riparian owner is allowed to have such a levee or embankment. The right is reserved to the Crown to enter upon any land, and to take any steps thereon necessary for the prevention of pollution or obstruction, or for clearing and deepening the channel, or protecting the bed and banks of any watercourse on the land to which the Act applies. The Minister, however, is not under a legal obligation to take measures to prevent the watercourse doing damage by erosion or flooding; but if such measures are necessary, they may be carried out by the adjoining owners or occupiers with the permission of the Minister.

The Wheat Harvest (1915-16) Act Further Amendment Act (No. 1368) is an Act on the same lines as the other Acts of a similar title dealt with in previous synopses. It continues the Wheat Pool for another year.

Amongst other things, it authorises and validates the financial arrangements for the marketing of the wheat harvests already made by the Commonwealth and the four States concerned in the Pool, and the Treasurer is authorised to guarantee to the Commonwealth a refund of any shortage made good by the Commonwealth on behalf of South Australia. Under the arrangements referred to, the Commonwealth guaranteed the wheat-growers 5s. per bushel for the ensuing season's wheat crop.

The Lights on Vehicles Act (No. 1370) re-enacts the pre-existing law on the subject (which had been in operation without amendment for nearly fifty years), with the following two important alterations:

(1) There are now no "exempt nights," *i.e.* the night of full moon and the four preceding nights, on which vehicles were not required to carry lights. A lighted lamp showing a clear white light from the front and a red light from the rear must now be carried on every night throughout the year.

(2) Where a load projects three feet or more from the rear of the vehicle, a red tail light must be carried so as to be seen by anyone overtaking the vehicle from the rear or passing it from the front.

The owner of the vehicle is liable in the first instance, but he may have the actual offender brought before the Court at the hearing of the charge, and if he proves that he used due diligence to prevent the commission of the offence, and that it was committed without his knowledge, consent, or connivance, the actual offender may be convicted. If these facts are known to the informant before the charge is laid, the actual offender may be proceeded against in the first instance.

The Act does not apply to the carrying of lights on motor vehicles, which is regulated by the Motor Vehicles Act, 1907 (No. 938).

The Drought Relief Act (No. 1397) provides for Government assistance to farmers in areas affected by the drought which prevailed in parts of South Australia in 1919. Assistance is given in two ways, one by the Government guaranteeing the payment of liabilities incurred by the farmer to private individuals, and the other by the Government itself supplying the goods required on credit. This latter method was that provided for in the Drought Relief Act 1914 (No. 1165), passed to relieve sufferers by the serious drought of that year. Provision is made in both cases for the amount disbursed by the Government to be a first charge on the land of the person assisted, and for repayment of the amount on demand by the Minister or on alienation of the land (voluntary or otherwise).

The Loans for Fencing Act (No. 1403) enables the Government to make advances to any settler or group of settlers for the purchase of fencing material for the purpose of fencing their land. The Act was called for owing to the lack of fencing material of all kinds brought about by the war. "Fencing material" is defined as "fencing material other than wire netting." This has reference to the fact that wire netting may be applied for under the Vermin Act, 1914 (No. 1181), on the lines of which Act this Act follows, and it was desired to avoid duplication. The Government is secured by a provision that every advance is to be a first charge on the land of the settler applying for the assistance.

In District Council Districts the Act is administered by the District Councils, and outside these areas by the Government direct, and in the latter case the purchase of wire netting also may be provided for.

Prices Regulation Act (No. 1414) repeals and re-enacts the Prices Regulation Act, 1914, which was intended as a purely war measure, and expired six months after the notification of peace, and embodies in its re-enactment a number of additional provisions and modifications of existing provisions which the experience gained by the operations of the Prices Regulation Commission under the prior Act had shown to be necessary or desirable. This Act itself will expire on November 31, 1921. A number of important administrative alterations are made, but the only alteration in principle is the insertion of some provisions dealing with the control of monopolies, taken from the Commonwealth Australian Industries Preservation Act, 1906-19.

Among the administrative amendments, the following may be noticed :

A number of additional price-fixing powers have been given to the Commission, namely :

- (a) To fix maximum prices on a sliding scale ;
- (b) To fix maximum prices which shall vary in accordance with a standard, time, or other circumstance ;
- (c) To fix maximum prices on a condition or conditions ;
- (d) To fix maximum prices which shall vary with profits, dividends, or wages ;
- (e) To fix maximum prices for cash or credit, or for delivery, and in any such case inclusive or exclusive of the cost of packing ;
- (f) To fix maximum prices on a percentage basis on landed or other cost ; and
- (g) To fix maximum prices according to or upon any principle or condition prescribed by regulation.

And the Commission is also given power to fix the rates of carriage of commodities. The Commission, by a notice delivered to an individual trader, may prohibit him from increasing without permission the price of any specified commodity on or after a certain date, and the price charged on that date is thereafter the "fixed price." A notice to the same effect may be given to traders generally by insertion in the daily newspapers, and thereafter the market price on the date specified is the fixed price. As in the 1914 measure, it is made an offence to fail to supply a "necessary of life" on tender of the fixed price, or to charge a higher price, and on a prosecution for the latter offence an invoice given or an account rendered, or an offer in writing, by the defendant in respect of such sale is made *prima facie* evidence of the sale or offer to sell, and of the price to be charged. The Act repeats the provisions of the 1914 Act, enabling the Commission to deal with "cornering" of any particular commodity, and in aid of this a new provision is inserted, enabling the Commission to take a census, *i.e.* to require returns to be made by merchants of the stocks held by them. At the same time it is provided that a person who sells subject to conditions may continue to insist upon the observance of such conditions by his customers or future customers, provided that such conditions are fair and reasonable, and do not militate against the purposes of the Act.

The only remaining provisions of the Act calling for comment are the express bestowal of power on the Commission, in exercising its functions, to act in conjunction with any similar body appointed by the Commonwealth or another State, and the authority conferred on the Commission to make reports to the Government concerning any matters arising in the exercise of any of their functions, and to recommend such

legislative, executive, or administrative action as they may deem desirable for the purpose of giving effect to the objects of the Act.

Social.—Firearms Registration Act (No. 1369) was passed at the request of the Commonwealth authorities, and is a measure designed to cope with any possible outbreak of lawlessness or " bolshevism " preceded by the secret accumulation of arms. It will come into operation by proclamation, and will apply only within proclaimed areas ; for example, the principal cities. The gist of the Act is that within a proclaimed area the possession by any person of an unregistered firearm is prohibited, under pain of a penalty for a first offence of £20, and for a subsequent offence of £100, in addition to confiscation. Registration is free and is in the hands of the police, who have conferred upon them ample powers of entry, search, and seizure. The Act does not apply to firearms held by members of the Commonwealth Military or Naval Forces or the Police Force, or of any registered rifle association, or held by a gunsmith in the way of his trade, or to firearms expressly exempted by regulations made under the Act.

Medical Practitioners Act (No. 1372) repeals the existing Acts (17 of 1844, 193 of 1880, and 471 of 1889) on the subject, and substitutes an up-to-date measure in keeping with the rise in the standard of medical education since those Acts were passed.

A Medical Board is constituted, consisting of five members appointed by the Governor upon nomination, three by the Minister, one by the registered medical practitioners, and one by the University of Adelaide. Members of the Board hold office for two years, and do not receive any fees for attendance at meetings. The Board, with the approval of the Minister, appoints the Registrar.

The qualifications for registration as a medical practitioner are the following :

(a) A degree in medicine or surgery of any university in Australia or New Zealand legally authorised to grant such a degree ;

(b) Registration, or qualifications entitling to registration, in Great Britain ;

(c) Having passed through a regular graded course of medicine in some part of the British Empire or some other country, such course being of not less than five years' duration, and being recognised by the Board as not lower in standard than that required in South Australia, and having received a degree or diploma certifying to ability to practise medicine or surgery, which would by law entitle him to be registered or to practice as a medical practitioner in such country or part of the British Empire.

The last qualification is new and is a much more restricted substitution for two existing qualifications, and it is expressly provided that such a qualification acquired in a foreign country need not be recognised by the Board, unless such country reciprocates and grants similar rights and advantages to qualifications acquired in South Australia.

Registration is in the discretion of the Board, subject to an appeal to the Supreme Court. To the reasons for which a name may be removed from the Register has been added the ground " deemed by the Board to have been guilty of infamous conduct in any professional respect " ; but the removal is by the Supreme Court and not by the Board, and there is power for the Supreme Court to restore a name so removed. The registration is annual, the registration and renewal fees payable

being each £1, but such fees are commutable at any time by a lump sum payment of £5.

The Act imposes the following disabilities upon an unregistered practitioner: he may not sue for fees for professional services, he may not hold an appointment in a public hospital or as a medical officer of health, or on board a vessel registered in and leaving the State, or give a death certificate. The last-mentioned disability existed under the previous Acts.

Insecticides Act (No. 1377) repeals the Act of 1910 of the same title, and deals with the subject-matter on an altogether different principle.

The principle on which the repealed Act proceeded was that the Government should fix standards for all insecticides and fungicides on the market. This meant that when an insecticide appeared on the market under a certain name it had to be analysed, and a standard fixed for it. By that time it had usually disappeared from the market and perhaps reappeared under a new name, when the process had to be repeated. The present Act requires every dealer in insecticides or fungicides to pay an annual licence fee for every such article bearing a distinctive name or brand dealt in by him, and to furnish to the Chief Inspector appointed under the Act a certificate setting out the constituents of each insecticide or fungicide, the percentage of each constituent contained therein, and what percentage of each constituent is soluble in cold water. Thus the dealer fixes his own standard, instead of the Government fixing a standard for him as required by the repealed Act. The principal object of the remaining provisions of the Act is to ensure that this standard should always be adhered to, *i.e.* that all insecticide or fungicide sold under the registered name or brand should be of the standard specified in the certificate. Hence it is provided that all insecticide or fungicide sold must be sold in containers bearing the distinctive brand licensed, and its constituents must correspond in every particular with the constituents set out in the certificate furnished to the Chief Inspector. The only provision calling for comment is the power to publish the results of the analyses of any insecticide in any newspaper, together with the name of the dealer from whom it was bought, and any explanations or comments. It may happen that a particular brand of insecticide or fungicide always complies with the standard when sold to the public, but a Government analysis may reveal that the stuff is practically useless for the purpose for which it is sold. In such a case the Government would be able, by exercising its right of publication and comment, to explain to orchardists and others in what constituents that particular brand of insecticide or fungicide was deficient. This power of publicity has also been found, in the administration of Acts based on similar principles (*e.g.* the Fertilisers Act, 1918), to be a more effective and respected sanction than the heaviest of monetary penalties. Hence it operates in two ways: it tends to encourage the dealer to create a high standard in the first instance, and to always maintain this standard in his sales to the public.

The Workmen's Compensation Act Further Amendment Act (No. 1379) increases the amount of compensation payable in the case of total or partial incapacity of the workman in two respects: (1) the amount of compensation payable weekly is not to exceed 50 per cent. of his average weekly earnings, or 30s. a week if single or £2 if married, whichever is the greater sum (previously it was the smaller of the two

alternative sums which was the maximum), but the workman is not to be entitled to receive more than his average weekly earnings; and (2) the total liability of the employer is increased from £400 to £500. Where death results the maximum liability is still £400.

The Second-hand Dealers Act (No. 1401) provides for the licensing of second-hand dealers. The only provision calling for comment is the power of the Governor, by regulation, wholly or partially to exempt from the operation of the Act any second-hand goods or any class or kind of second-hand goods, or any particular second-hand dealer or any class or kind of second-hand dealers. Pawnbrokers, auctioneers, and marine store dealers are not affected by the Act.

The title of the Rating for Hospital Purposes Act (No. 1409) sufficiently expresses the purpose of the measure, *i.e.* "to provide for contributions by Municipal Corporations or District Councils for Public Hospitals, and for other purposes." The Inspector-General of Hospitals makes a requisition upon any local governing body whose district is served by any public hospital erected or proposed to be erected for the subscription he requires towards its erection or maintenance. The whole cost of the hospital will never fall on the local authority, for all public hospitals are liberally subsidised by the Government. The subscription is compulsory. If not paid, it may be deducted from any Government subsidy or grant payable to the local governing body in default, or it may be sued for in any court of competent jurisdiction as a debt due to the Inspector-General.

Garden Suburb Act (No. 1412) marks the first attempt in this State in the practical application of town-planning principles. Just at the outbreak of war the Government bought a block of land comprising about 300 acres, in the neighbourhood of Adelaide, for the purpose of an experimental garden suburb; but during hostilities it was used as a site for the local training camp of the Australian Imperial Force. After the Armistice it was handed back by the Defence Department to the State Government. A design of subdivision has been prepared by the Government Town Planner, and the Act gives effect to the scheme drawn up by him. The Act is concerned only with the subdivision and sale of the land, and its administration and development as a garden suburb. It provides for the exercise of a control over the buildings erected in the suburb for the purpose of ensuring its well-being and the preservation of the amenities, but apart from this it does not deal with the actual erection of buildings at all. This will be done, subject to the power of control already mentioned, either privately or by the State Bank under the Advances for Homes Acts. It is to be noted that it is not intended to restrict settlement in the suburb to returned soldiers or indeed to any particular class, nor to build homes of a uniform design.

The scheme of the Act is as follows:

A Garden Suburb Commissioner will be appointed, and, subject to the control of the Minister, will administer the suburb. He will be a body corporate, and as such will be the registered proprietor of the whole of the land comprised in the suburb until sold. The Commissioner, working in collaboration with the Government Town Planner, will subdivide and sell the land in accordance with the design (appearing in one of the schedules) drawn up by the latter. A purchaser may not purchase more than one allotment, must pay off the purchase money within twenty years, and commence building within two years, and must not transfer or mortgage within ten years, unless, in each case, the consent of the

Commissioner is previously obtained. Provision is also made, in case of breach of these conditions, for forfeiture by the Minister, cancellation of the certificate of title, and the revesting of the land in the Commissioner. It is hoped that these provisions will be an effective deterrent against speculation in the land. Blocks may be set apart by the Commissioner for public recreation or for any other public purpose, or for any charitable, religious, patriotic, or educational purpose, or any other purpose prescribed by the Governor by regulation. Blocks so earmarked must be used for their special purpose under a similar pain of forfeiture. The Commissioner may carry out such developmental works as he considers necessary or expedient for the successful development and maintenance of the suburb as a garden suburb, and he may contract with neighbouring local governing bodies for this purpose. The last-mentioned provision should prove helpful in preventing the necessity for the acquisition of expensive new plant, *e.g.* for road-making, for use in a comparatively small area of land.

The Commissioner is given an ample by-law-making power, and amongst other things may legislate with respect to such matters "as are prescribed by the Governor by regulation." Such by-laws, however, have no force or effect until confirmed by the Governor. A similarly wide power is given to the Governor; namely, that of dispensing with, suspending, or varying, within the suburb, any Act, by-law, rule, or regulation which would, in the opinion of the Commissioner, prevent or impede the successful development of the suburb as a Garden Suburb. It is worthy of notice that this power may be exercised without reference to Parliament.

The suburb, at the outset, is made a municipality under the control of the Commissioner, but as soon as there are 300 ratepayers resident, the suburb may be constituted an autonomous local governing body, or may be added to an existing Local Government area. When this is done, the functions of the Commissioner may be either continued by him or may be transferred to the local governing body, and if in the meantime any dispute arises between the two, the dispute will be finally decided by the Minister.

Administrative.—The Public Service Act Amendment Act (No. 1385) slightly alters the procedure to be adopted when an officer of the Public Service is suspended. The Public Service Commissioner is made an intermediate court of appeal before the final court of appeal, the Board of Inquiry, is reached, and it is the Commissioner, and not the Head of the Department, as at present, who decides whether or not the charge is so serious as to call for investigation by a Board of Inquiry. An officer in the Public Service was by the Public Service Act, 1916, prohibited under all circumstances from engaging in private business, but the present Act enables the Governor to consent to an officer engaging in private business whilst he is on long leave of absence and genuinely intends to resign at the end of it. Provision is made for the appointment to permanent offices of returned soldiers at present only temporarily employed, if considered competent, without it being necessary for them to pass the entrance examination or satisfy any other condition prescribed for new entrants.

The Harbours Act, 1913 (No. 1149), authorised the acquisition by the Government by notice in the Government *Gazette* of all wharves in the State, and provided for the assessment of compensation by way of

arbitration. The amending Act (No. 1389) is purely a machinery measure passed to resolve certain doubts which have arisen in connection with the arbitration proceedings. It provides for a majority decision of arbitrators, for the appointment of a substitute in case of the death, resignation, or incapacity of an arbitrator or the presiding judge, and for the non-interruption and completion of the proceedings notwithstanding such substitution; and clearly defines the right of appeal, *i.e.* the stating of a special case for the opinion of the Supreme Court on a question of law.

The Railways Clauses Act Amendment Act (No. 1392) makes it quite clear that the Railways Commissioner may compulsorily acquire land as well for the purposes of constructing and maintaining works and conveniences connected with an authorised railway, as for the purpose of the original construction and maintenance of the line itself. Hence, the Commissioner may now acquire from time to time any land, wherever situated, which the changing conditions of railway administration may require.

Miscellaneous.—The Fourth Judge Act (No. 1358) authorises the appointment of a fourth judge to the Bench of the Supreme Court of South Australia. The sole reason for the Act was to secure the independence of the Judiciary, by providing for the annual appropriation of the new judge's salary and making it independent of a Parliamentary appropriation. There was already power to appoint.

In 1858 the Supreme Court Bench was increased to three judges, and this is the first additional appointment since that date. The Act provides that the Full Court may still be fully constituted if it consists of not less than three judges, or if any of the four judges are absent, ill, or otherwise engaged, or declare themselves interested in the matter in question, then it may be constituted by the other judges.

Fauna.—The purpose of the Fauna and Flora Reserve Act (No. 1364) is succinctly expressed in the title "An Act to establish a Reserve on Kangaroo Island for the Protection, Preservation, and Propagation of Australasian Fauna and Flora, and to provide for the control of such Reserve, and for other purposes."

A large area of land comprising about 163 square miles, to be known as "Flinders Chase," is set apart at the western end of Kangaroo Island for the purposes of this reserve, and there is power for the Governor to dedicate further Crown lands for this purpose. The land is useless as agricultural or grazing land. The Reserve will provide a sanctuary for the many species of Australian fauna now threatened with extinction; at the same time it is proposed to plant with pines all the soil suitable for them, and to utilise and render profitable the indigenous flora, including the narrow-leaved mallee and yacka, valuable for its gum. Ultimately it is proposed to evolve a large scheme rendering the Chase a health and public pleasure resort, thereby making the Chase self-supporting.

The Flora and Fauna Board in whom the control of the Chase is vested is composed of six members, two nominated by the Minister, two by the University of Adelaide, and two by the Royal Society of South Australia Incorporated. Ample powers are conferred on the Board to enforce the Act and to develop and protect the Chase as a reserve for flora and fauna, and also with a view to its being ultimately a health resort and national park. In particular the Board is given

power to sell or exchange specimens of flora and fauna and any other product of the Chase, thus providing at the same time a means of thinning out any species of fauna which are increasing disproportionately and also a source of revenue. Extensive powers are given to the Board and its officers for the prevention and detection of poaching, trespassing, and similar offences, and in this regard a very useful provision is made by the Act, to the effect that the value of any animal or plant illegally taken may be recovered, in addition to the penalty imposed in respect of such taking.

Animals and Birds.—The Animals and Birds Protection Act (No. 1365) consolidates, with considerable alteration, the prior statute law relating to the protection of wild animals (No. 1106 of 1912), the protection of wild birds (Nos. 745 of 1900 and 828 of 1903), and the use of firearms for purposes of sport (Nos. 6 of 1875 and 508 of 1891).

The main object of the Act is to extend the up-to-date and very effective provisions of the Act passed in 1912 for the protection and preservation of native animals to the native birds, of which many species are a distinct economic asset as destroyers of insect pests, but which, owing to defective provisions of existing legislation, are now rapidly diminishing in numbers. The animals and birds of the State are divided by the Act into three classes, viz. those wholly protected, *i.e.* protected at all times; those partly protected, *i.e.* protected only during certain "close seasons" of the year set out in the Act; and those not protected at all. The animals and birds comprised in the three classes are set out in the schedules to the Act. These schedules are very long, and give the common name of the species as well as the scientific generic or specific name, and for reference purposes the species numbers contained in Dr. Leach's *Australian Bird Book*, or the page in Mathew's *List of Birds of Australia*, 1913; but long as the lists are, very few new species have been added by the Act. Power is given to the Governor to transfer any animal or bird from one class to another, and also to vary the respective "close seasons." In addition, he may by proclamation declare that the Act shall not apply at all within a specified area, or shall apply within a specified area only to specified animals or birds, and he may declare any area to be a closed area, *i.e.* a sanctuary within which all game are deemed to be protected, either generally or only with respect to particular species. He may also fix a "bag limit" with regard to wild ducks or quail or other partly protected game, *i.e.* the maximum number of that particular species that may be taken during one day. Such bag limit does not apply to the holder of a "game licence," *i.e.* a person licensed to take partly protected game for sale.

The Minister may grant permits for the taking of animals and birds for scientific purposes or for domestic pets, even though protected. Drastic powers of entry and search are conferred upon inspectors under the Act, and also of apprehending persons committing offences who refuse to give their name and address. Among other things it is made an offence to buy or sell or export any protected animal or bird, or its carcase, skin, feathers, or eggs; to buy or sell any article wholly or partially made from the skin of any protected animal or bird, or the feathers of any protected bird; or to enter any closed area with a gun or any other instrument capable of being used for the purpose of taking any animal or bird; to use artificial light for the taking of opossums; or to scare away birds from soaks in the Coorong. The Coorong is a long,

narrow strip of swampy country much frequented by wild fowl; and this last provision has reference to the practice of erecting scarecrows by the side of the fresh-water soaks, for the purpose of scaring away the wild ducks and geese, and compelling them to go to a particular waterhole where the "sportsman" is lying in wait for them.

There are several very useful evidentiary provisions contained in the Act, *e.g.* the presumption that a partly protected animal or bird proved to have been taken was taken during the close season, and also as to the purpose for which a trespasser found with gun or dog, etc., was upon the land.

Exemption is granted by the Act to enable any person to keep a protected bird or animal as a domestic pet; to enable the owner or occupier of any garden or cultivated land to protect his property from the depredations of wild animals or birds; and to enable an aboriginal inhabitant of the State to take any animal, bird, or eggs upon Crown lands (not in a closed area) sufficient for himself and his family, but not for sale. If this last-mentioned privilege is abused, it may be curtailed by regulation.

The second half of the Act deals with the use of firearms for sport. Every person using firearms for sport, except an aboriginal native or a person using a gun with a bore not greater than No. 10 solely for shooting on his own land, must take out an annual gun licence (fee, 2s. 6d.). A gun licence, however, has no operation on a Sunday, and any person shooting on a Sunday is guilty of an offence; but there is power to exempt any area or locality from this prohibition of Sunday shooting. Any person who takes game for sale must take out a "game licence" (fee, £1)—a game licence covering and including a gun licence. No person is to be licensed who is under fifteen years of age. All licences are now issuable by Government officials, and not as hereinbefore by local governing bodies, and the fees are payable into the State Revenue.

Gun and game licences must be carried by licensees at all times when engaged in the sport or business for which the licence was issued, and must be produced on demand. On conviction for an offence the licence may be cancelled, and the onus is on the defendant to prove that he is licensed. He is expressly required to produce his licence in court if prosecuted for an offence.

5. TASMANIA.

The session of the legislature extended over the end of the year 1918, so that forty of the Acts received the Royal Assent in 1919, and did not come, therefore, within the scope of the review of last year.

Workmen's Compensation.—The whole law of workmen's compensation is consolidated in No. 40. In the main it follows the provisions of English law, modified by sections derived from the laws of South Australia and New Zealand.

Firearms.—The use of firearms is prohibited by No. 41 in terms similar to the South Australian Act, No. 1321 of 1917.

Wills.—No. 56 follows the lines of the English Act of 1918 as to the wills of men on active service.

Civil Service.—No. 69 is a comprehensive consolidation Act organising the public service on lines common to the Australian States.

Medical Practitioners.—Complementary to the Hospitals Act sum-

marised in the last review is an Act (No. 71) consolidating the law relating to medical practitioners. Qualifications in England, Scotland, and Ireland are accepted, also "Doctor or Bachelor of Medicine, or Master in Surgery of any University within the British Dominions." A medical practitioner may also be any person who proves to the satisfaction of the Medical Council of Tasmania :

1. That he has passed through a regular graded course of medical study of not less than four years' duration in a medical college situate in one of the States of the United States of America, and rated and accepted as of Class A by the Council on Medical Education of the American Medical Association ; and

2. That he has received after due examination—from such a medical college—a medical diploma or degree, certifying to his ability to practise medicine or surgery, as the case may be ; and

3. That he has received from the State Board of Medical Examiners of the States in which such Medical College is situated a certificate or licence entitling him to practise medicine or surgery, as the case may be, in such State.

Fruit.—In order to give encouragement to the cultivation of fruit the Minister of Agriculture is authorised by No. 72 to make advances to companies for the purchase of land on which a packing shed is to be erected, the erection of packing sheds, and the purchase of fruit-grading machinery.

In the following session the Royal Assent was given to the first Act on July 28, 1919.

Payment of Members.—The previous legislation is repealed by c. 3, and the allowance to members fixed at £300 per annum. The Leader of the Opposition may receive an additional £100 per annum. The President of the Legislative Council and the Speaker of the Assembly each receives £500 per annum by c. 4. The Chairman of Committees in each House respectively receives £350 and £400 under the same Act. The Chief Secretary, the Attorney-General, the Minister for Land, and the Minister for Works each receives £700 under No. 5, and the last two, which were formerly one office, now become separate.

Daylight Saving.—"Daylight saving," introduced by legislation in 1916, was terminated by No. 9.

Fruit.—By an amending Act, No. 33, the objects for which loans may be made under 9 Geo. V. c. 72 are extended by the addition of (i) the erection of pulping works or assisting to pay the cost of any pulping works already erected or in the course of erection, and (ii) the purchase of pulping works.

Legal Practitioners.—A student who has taken the degree of Bachelor of Law is entitled by No. 37 to a reduction of his period of articles.

Public Trustee.—The work of the Public Trust office is extended by No. 38, amending the principal Act of 1921 by the adoption of provisions from the New Zealand legislation.

Homes.—No. 39, briefly described as the Homes Act, is for the purpose of providing homes and advances for persons of limited means. In order to be eligible the applicants must be married or have dependents for whom it is necessary to maintain a home, and possess not more than £200 per annum, of which not more than £20 is from property. Advances may be made to any eligible person for the purpose of enabling him (i) to erect, as a home for himself and his dependents, a dwelling-house on

his holding ; or (ii) to purchase land and erect a dwelling-house thereon ; or (iii) to purchase a dwelling-house, together with the land on which it is erected, or which is occupied therewith, as a home for himself and his dependents ; (iv) or to complete a partially owned dwelling-house erected by him ; (v) or to enlarge a dwelling-house erected by him ; (vi) or to discharge any mortgage, charge, or encumbrance already existing on his holding. In connection with the payment of interest upon advances it deserves notice that a rebate of one-half per cent. is allowed for prompt payments.

Justices.—Fifteen Acts and portions of three others are consolidated in No. 55, which sets forth the law relating to the procedure of justices.

Land-tax and Income-tax.—Under No. 57 any person who is married, or a widower, or widow with a child under sixteen years is not liable to income-tax if the income is £200 in the case of a returned soldier, or £156 if in either of the other categories. For unmarried persons the limits are £156 and £125 respectively. For tax-payers whose income is under £350 a deduction from the amount payable of six shillings is made for each child dependent upon the tax-payer.

6. VICTORIA.

[Contributed by HIS HONOUR JUDGE ZICHY-WOJNARSKI, K.C., and
W. HARRISON MOORE, ESQ.]

Third Session, Twenty-fifth Parliament : Acts passed—51.

Discharged Soldiers Settlement.—Act No. 3039 amends Acts passed in 1918 (see *Review of Legislation*, 1918, p. 68) and 1917 (see *Review of Legislation*, 1917, p. 79). The provision for advances to soldier settlers fixed in the principal Act at £500 is increased to £625, or in the case of land in the " mallee country," or land which in the opinion of the Minister is mainly grazing land, £1,000. The limit of £10,000 fixed by the principal Act for the value of private estates to be acquired for settlement is raised to £25,000. The amount of money which the Government is empowered to borrow for the purposes of the Act, fixed originally at £2,250,000, and raised to £4,000,000, is now raised to £8,000,000. The Act makes a number of alterations in detail.

State Savings Bank.—Under Act No. 3007 advances to returned soldiers for the purpose of aiding their settlement may be made on terms more favourable to the borrower than is permitted in other cases in the following respects : (1) Three-fourths is substituted for two-thirds in the relation of the advance to the security ; (2) 5s. per cent. less than the ordinary rate of interest may be charged ; (3) the half-yearly amounts in repayment of principal are reduced by from £2 to 10s., according to the nature of the security.

Necessary Commodities Control.—Under Act No. 3030 the Governor in Council may appoint a " Fair Profits Commission " of three persons, with extensive powers of control over the sale of " necessary commodities," with a view to the restriction of " undue profit-taking." " Necessary commodities " means a number of commodities enumerated, including all fuels for lighting or industrial purposes, food-stuffs, clothing, furniture, buildings, and machinery, and the term extends to any article or product (other than any prescribed agricultural product in the ownership or possession of the grower or producer thereof) declared to

be a necessary commodity by proclamation. The Commission may investigate prices, profits, and costs at all stages, and may investigate complaints that a profit is being, or since the commencement of the Act has been, made on the sale of any necessary commodity which is in view of all the circumstances unreasonable, and the Commission may in such case declare the price that would yield a reasonable profit, and require the seller to repay to the buyer any excess. The Commission may also report to the Minister that proceedings should be taken against the seller of any necessary commodity, and if in such proceedings it is found that the price being charged was "such as to yield a profit which is in view of all the circumstances unreasonable," the seller is guilty of an offence under the Act. The Commission further has power (1) to inquire into the existence of trusts, combinations, and arrangements connected with mining, manufactures, trade, commerce, finance, or transport; (2) to report to the Governor in Council as to what should be the highest rate of profit (whether gross or net), the highest charge for delivery, and the highest price for necessary commodities. The Commission may report as to what is the most practicable basis for determining maximum rates of profit, and in respect of what necessary commodities maximum prices should be fixed or maximum rates of profits declared on the basis of manufacturing, landed, delivered, or other cost; and as to what items should be included in such cost; and as to whether, in ascertaining such cost, regard should be had to the invoice cost of the materials used, or the cost of replacing the materials used, or to any other method or principle. In any such action the Commission is to have regard to market conditions, and the ordinary average expenses of carrying on the business. The Government has power to make orders declaring maximum price or profit, whether on report of the Commission or (*semble*) on its own initiative (s. 10). An auxiliary provision of the Act enables the Government, on the report of the Commission, to require traders to adopt prescribed methods for ascertaining the cost of the various operations from production to marketing, to keep proper records of such costing, and to produce such records on demand.

To prevent evasions of the Act, where any price or profit has been fixed, wholesale dealers purchasing from wholesale dealers (not being actual producers or importers of the commodity), and retail dealers purchasing from retail dealers, are restricted in any sale to the maximum price or profit of the person from whom he bought.

Contravention involves, in addition to penalties, a liability to refund the excess of price charged. For any person "having in his custody or under his control any necessary commodity in which he usually trades in excess of the reasonable needs of himself and his family, and in respect of which a maximum price or rate of profit has been declared," to refuse to supply a *bona fide* intending purchaser is an offence; but it is a sufficient defence if the defendant can show that he had not a sufficient quantity of the commodity to supply the purchaser, having regard to his contractual obligations and the ordinary requirements of his business, or that there existed special circumstances in the particular case rendering the price inadequate, and that the action of the defendant was reasonable. In the case of a wholesale dealer, it is a defence that the person demanding to be supplied was not a retail trader in the commodity, and in the case of a retail dealer it is a defence that he supplied a quantity sufficient to meet the reasonable needs for one week of the person making the

demand. Necessary commodities withheld from sale may be seized by order of the Governor in Council, and taken over at the maximum price or declared profit, less expenses of seizure and distribution. The Commission may publish such information obtained in the course of its investigations as it thinks fit.

The scale of penalties under the Act is severe—from £2 to £200 for a first offence; from £10 to £350 for a second offence; and from £50 to £500 for a third or subsequent offence, and imprisonment either alternatively or cumulatively; while in the case of a corporation, the maximum penalty for a first offence is £1,000, a second offence £2,000, and a third offence £3,000. No persecution may be undertaken without the consent of a law officer. The Act was in force until December 31, 1920.

Licensing.—Six o'clock in the evening had during the war been fixed as the hour for the closing of licensed houses. The Act (No. 3028) perpetuates that and contains mainly other provisions to make that closing effective. The hours of nine in the morning and six in the evening are now specified as the hours during which the sale and disposal of liquor are authorised, and the hours of ten to six are fixed for the use of billiard tables on the premises of licensed victuallers or Australian wine licensees (s. 4). The sale of non-intoxicating beverages is prohibited on Sunday or during the hours during which the sale and disposal of liquor to the public generally is not authorised (except to persons to whom and at times at which, and in circumstances in which, and subject to conditions under which the sale or disposal of liquor on such premises is authorised by or under the licensing Acts on Sunday or during prohibited hours), unless such sale is authorised by and is not in contravention of a permit (s. 5). The use of any billiard or bagatelle table on any licensed premises is also prohibited before ten o'clock in the morning or after six o'clock in the evening, unless the use is authorised and is not in contravention of a permit. There is an increase of the penalties in the principal Act (s. 8).

Provision is made for a lodger's register book to be kept by licensed victuallers and by holders of Australian wine licences, in accordance with rules to be made as to the particulars and form and manner of treating the same, etc. (s. 10). Power is given to the Licensing Court to grant licences to sub-managers of railway refreshment rooms; and to the holder of a railway refreshment-room licence not within the City of Melbourne, or a distance of twenty miles thereof, to sell and dispose of liquor, notwithstanding anything in the Licensing Acts, in such railway refreshment room to persons who have travelled not less than twenty miles by train—from the arrival of the train at the railway station until its departure therefrom, but not during a longer period than twenty minutes after such arrival.

Public Health.—No. 3041 is a long Act of 370 sections, but in the main it consolidates and restates the provisions of a number of Acts relating to public health, and is to be read with the principal Act. The West Australian Health Act, 1911, No. 34, and the recent South African Union Act are the models upon which the present Act has been drafted.

The Board of Public Health under the principal Act is abolished, and in its place is constituted a Commission of Public Health of seven members: (a) The Chief Health Officer, and (b) six members appointed by the Governor in Council, amongst whom shall be included;

(i) Not more than two medical practitioners;

(ii) One member appointed as representing metropolitan municipalities ;

(iii) One member appointed as representing cities, towns, and boroughs other than metropolitan municipalities ; and

(iv) One member appointed as representing shires other than metropolitan municipalities.

The functions of the Commission are set out as :

(i) (a) To promote the prevention, limitation, and suppression of infectious and of preventable diseases ;

(b) To report to the Minister upon matters affecting the public health, and upon any amendment which it thinks advisable in the law relating thereto and upon matters referred to it by the Minister ;

(c) To promote and carry out researches and investigations, and to make inquiries in relation to matters concerning the public health and the prevention or treatment of disease ;

(d) To publish reports, information, and advice concerning the public health, and in particular concerning the prevention and control of disease and the education of the public in the preservation of health ;

(e) To advise and assist councils of municipalities in regard to matters affecting the public health ;

(f) To prepare regulations under the Act ;

(g) To prepare model by-laws for adoption by councils of municipalities.

(ii) To make or cause to be made inquiries in relation to matters concerning the public health, in any place or with respect to any matter to which its approval or consent is required ;

(iii) To make an annual Report to the Minister.

The Commission has also special powers (1) in any emergency to exercise and perform in any part of Victoria all or any of the powers and duties of a municipal council ; (2) wherever the certificate of a health officer is required to accept the certificate of a medical practitioner if no medical officer of health is conveniently available.

Health areas are to be constituted by the Governor in Council, and to every such area a district health officer is to be appointed. Such officer must be a medical practitioner and an expert in sanitary science, and his duties are to be subject to the directions of the Chief Health Officer, to report quarterly and also annually to such officer on the public health and sanitary circumstances of his area, to make suggestions for more effectually promoting the objects of the Act, to advise and assist medical officers of health and inspectors of councils having jurisdiction in his area, to exercise such powers and duties of the Chief Health Officer as are assigned to him, and to perform prescribed duties in connection with the medical inspection of and the promotion of the health of school-children.

As to a "septic tank system," defined as a "system for the bacterial, biological, chemical, or physical treatment of sewage, and including all tanks, beds, sewers, drains, pipes, fittings, appliances, and land used in connection therewith," the approval of the municipal council must first be obtained before installation and a written application for such approval, with plans and specifications and full particulars, must be first made to the council. No council shall itself install any septic tank system without the approval in writing of the Commission.

Dangerous trades are now regulated by this Act. Any trade usually

carried on, in, or in connection with arsenic recovery works, chemical manure works, match factories, metal-grinding or polishing works, sulphuric or hydrochloric acid works, white-lead works, are set forth as dangerous trades, as well as any other trade that, unless preventive measures are adopted, may become dangerous to the health of persons employed therein, and which is ordered by proclamation to be a dangerous trade.

The Act requires dangerous-trade premises to be registered with the Commission, and empowers the Governor in Council to make regulations as to such trades.

The Act gives (in ss. 120-21), in reference to infectious diseases, the fullest powers to the Governor in Council to make regulations, on terms similar to those in the South African Union Bill and the West Australian, 1911, No. 34.

In remodelling the provisions dealing with vaccination against small-pox the Act provides, for the first time in Victoria, for the case of a parent having a conscientious objection to the vaccination of the child, and exempts such parent from penalty for non-vaccination of the child if a statutory declaration is made by him or her within four months of the child's birth.

In the provisions dealing with private hospitals it is required that such hospitals must now be registered with the Commission, and that upon application for registration or for renewal thereof the Commission is to consider the suitability of the premises and of the site and situation thereof and the sanitary arrangements thereof for the purposes of a private hospital; the character of the applicant and his or her fitness to carry on a private hospital, and also the management of the hospital (ss. 154 and 155).

The Act also provides for the registration of boarding-houses. This, too, is new. "Boarding-house" is defined to mean "any house, tent, or edifice, building, or other structure, permanent or otherwise, and any part of such premises (not being the licensed premises of a licensed victualler), in which more than five persons, exclusive of the family of the proprietor thereof, are lodged or boarded for hire or reward from week to week, or for more than a week." The Governor in Council is empowered to make regulations as to the number of persons to be accommodated; the classification and inspection of boarding-houses; the drainage of the premises; the provision of suitable sanitary conveniences and of baths; promoting the cleanliness, lighting, and ventilation (including floor and air space) of the premises; the maintenance of the premises in a proper state of repair; requiring the provision of suitable stores for the keeping and storing of food, properly constructed, situated, and ventilated (ss. 180-3). Somewhat similar provisions are now made in respect to eating-houses (ss. 191-5).

To secure co-operation in health administration, power is conferred on the Governor in Council to provide for the execution of any powers or duties of any officer or inspector of the Department of Public Health by any officer or inspector of any other department. To the same end it is provided that where any Act or Enactment administered in the Department of Public Health and any Act or Enactment administered in any other department deal with the same or the like subject-matters, or contain provisions for the making or approval of regulations or by-laws relating to the same or the like subject-matters, it shall be the duty of

the permanent heads of the several departments concerned, before any such regulations or by-laws are made or (as the case may be) submitted to the Governor in Council for his approval, to confer with one another so as to secure as far as practicable that the regulations and by-laws shall be uniform and consistent (s. 295).

The Commission is empowered to enforce the exercise by any municipal council of its power and the performance of its duties by an order to execute or perform them within a specified time, and upon default such order may be enforced by writ of *mandamus* or by the Commission itself exercising or performing them at the expense of the council (s. 316).

The remainder of the Act restates the law as to nuisances, sanitation, offensive trades, infectious diseases, vaccination, hospitals, buildings, lodging-houses, fire prevention, food, drugs, and meat supervision, and in the last clauses it authorises the appointment of Government and municipal medical officers, whose duties shall be (a) to give medical attendance to persons who are entitled to receive medical attendance, pursuant to the rules of any friendly society agreeing with the Government or the municipality for this purpose; (b) to perform such other medical duties as may be agreed upon or prescribed.

Maintenance.—Where a man has been committed to prison under the Marriage Act, 1915, in default of compliance with an order for the maintenance of his wife or children (including illegitimate children), or for providing confinement expenses, he may under Act No. 3010 be released from gaol on entering into a recognisance. This recognisance shall be for such amount as the Governor in Council thinks fit, and shall be conditional on compliance with the order as to maintenance or payment of confinement expenses, and may contain conditions (a) for securing wife and children against molestation; (b) as to abstention from drink, and as to prohibiting the man from visiting places where liquor is sold; and (c) generally for securing that the man "will be of good behaviour and will lead an honest and industrious life." Breach of the conditions of the recognisance involves forfeiture of the sum due under the recognisance and committal to prison for the unexpired term.

Validating Marriage.—Where a decree *nisi* of dissolution or nullity of marriage has been pronounced, and before such decree has been made absolute one of the parties has gone through a form of marriage with some other person, a court or judge, under Act No. 2998, may declare such "marriage in fact" to be valid, if satisfied that the omission to have the decree made absolute was accidental, or due to inadvertence or the negligence of a solicitor, or was owing to lack of means, or to the cause not being under the control of the applicant; and if in any such case the court or judge is satisfied that the applicant was not aware that the decree had not been made absolute, and had a *bona fide* belief that there was no legal impediment to the marriage. No estate or right in real or personal property to which any person has become entitled before the date of the declaratory order shall be affected by such order.

Children's Maintenance.—A mother whose child (whether born in wedlock or not) is without sufficient support may apply, under Act No. 3001, to the Neglected Children's Department for a weekly sum for or towards the maintenance of her child. The maintenance money for any child shall not be less than 6s. nor more than 12s., and ceases on the attainment of the age of fourteen years unless the Minister is of opinion that exceptional circumstances warrant the payment of a larger sum

or the extension of the age limit. The procedure on application is that the secretary to the Department undertakes an investigation into the case, and for this purpose has power to call on any person (under penalty of £50 or six months' imprisonment) to furnish him with a confidential report "as to the circumstances or the financial transactions of the applicant, or of the husband (if any) or children of the applicant." The result of the secretary's inquiries is, with the application itself, forwarded to a police magistrate, who proceeds to "investigate the application for the purpose of ascertaining whether the statements therein are true, and whether in his opinion assistance should be granted to the applicant." It is required that the application should be corroborated on all material points. The magistrate sends his recommendation to the Department and the secretary forwards it with his own comment to the Minister, who then grants or refuses the application. Payment may be discontinued by order of the Minister, and the Minister may also increase or diminish the amount of the maintenance. Every child for whose maintenance any sum has been granted under the Act is to be under the care of a medical officer, whose duty it shall be to see the child as prescribed by the Neglected Children Act, 1915, and the provisions of that Act relating to visiting and inspecting places of residence apply. The father of a child is liable to pay to the secretary of the Department the sums paid by the Department to the mother. "Father" includes a stepfather and any person against whom an order of affiliation has been made, and also the putative father of an illegitimate child which he has recognised as his, though no order has been made against him.

Under another set of provisions in the Act (s. 16), where a child is without sufficient means of support, and no available means can be taken to obtain sufficient means of support, the child may, by proceedings similar to those already described, be made a ward of the Neglected Children's Department under the Neglected Children Act, 1915. The application may be made by (a) the mother; or (if the mother is dead, or of unsound mind, or has deserted the child) (b) any relative of the child, which includes any relative of the mother of an illegitimate child; or (c) in other cases, any member of the police force above the rank of sergeant.

Railways Classification Board.—Act No. 3006 provides for the appointment of a Board of four persons—two representing the State Railways Commissioners and two elected by the railway employees—with a county court judge as chairman, with power to determine (s. 9): (a) the rates of salary of all grades of officers up to a limit of £400 per annum, and the rates of wages of all grades of employees other than those within subs. 2; the method of applying to any class of cases within a grade the rates of salary or wages determined in respect of such grade, and the number of hours to be worked daily for the rate of salary or wages payable under an award of the Board; (b) in respect of any such grades, (i) the maximum number of hours to be worked daily or in any period; (ii) the maximum number of hours over which a shift may extend; (iii) the minimum interval of rest between shifts; (iv) the maximum number of shifts to be worked weekly or in any period; and (iv) what payment or allowance, if any, shall be made by reason of any condition of employment affecting remuneration (but not including payments or allowances during sickness or in respect of accidents), such as the payment or allowance to be made for overtime or emergency work; for Sunday, holiday,

or night work ; for travelling or waiting time ; for relieving expenses ; for travelling or incidental expenses ; for expenses incurred and time occupied in transfer ; for relieving in higher positions ; for work performed under special conditions ; in lieu of quarters ; to enginemmen, guards, and other officers and employees for the conditions associated with the running of trains ; or to youths living away from home. Subs. 2 provides that where any class of employee is engaged under the Railway Companies in work substantially the same as that covered in the case of other employees, by the determination of a Board under the Factories and Shops Acts, such class of employees shall receive not less than the minimum wage prescribed by such Board, and shall work not more than the number of hours specified in the determination of such Board. The Board is to invite claims in regard to each item to be investigated, and must take into consideration claims presented by at least one-half of the number of men in any grade affected by any item. Claims may be presented by an "accredited representative," who requires no other qualification than that he shall not be a legal practitioner ; the same provision applies to members of the Board itself other than the Chairman. Awards of the Board are not to be operative without the approval of the Governor in Council, and such approval shall be with such alterations, if any, as the Government may determine on. The period of operation for awards is not less than one year nor more than three years ; the Board has the power of interpretation and variation ; and "no award or variation thereof and no order of the Board shall be challenged, appealed against, reviewed, quashed, or called in question, or be subject to prohibition or *mandamus* in any court on any account whatever." The Act is in force till December 31, 1922 ; "but the question of the duration of this Act shall be considered by Parliament before the said day," and if no Act is passed before December 31, 1922, affecting the duration of the Act, it is prolonged till the end of the next ensuing session of Parliament.

Dairy Produce.—This Act (No. 3005) requires that in all factories in which dairy produce is manufactured there shall be employed testers and graders for the purpose of grading milk and cream received thereat, and determining whether such milk or cream is below the standard prescribed for the lowest grade of milk or cream that may be made into butter, cheese, or other dairy produce. Proper records of such grading and testing must be kept. All butter and cheese manufactured must be graded and the packages marked with a mark indicating grade and net weight. All mixing of different grades, whether of milk or cream, or of butter or cheese, is made an offence ; inspectors may require that the marks of produce improperly graded shall be altered. Produce below the minimum grade found in any factory, store, or ship where dairy produce is sold otherwise than solely by retail, and any unmarked packages, may be seized by an inspector and disposed of as determined by the Milk and Cream Graders' Board established by the Act. This is a Board of seven persons, of whom three are officers of the Board of Agriculture, two are representatives of owners of factories, one is a representative of factory managers, and one a dairyman supplying milk or cream to a factory. The Board is charged with the issue of certificates of testers and graders after examination, and may, subject to appeal to a police magistrate, cancel such certificates. The Board is also in some cases an appellate tribunal from the findings of inspecting officers.

Every factory or store in which dairy produce is received or stored or sold otherwise than solely by retail is to have a licence, and to pay a licence fee which in some cases is fixed and in others computed by reference to the output of the factory. "In the event of any dispute as to any amount payable under this section, the decision of the Minister shall be final." Every dairy farm, factory, or store, and every vehicle or ship used for the carriage of dairy produce, is made subject to inspection, and after a date to be specified all dairy produce intended for export is to be submitted for examination and check-grading. The heads of subjects on which the Governor in Council is empowered to make regulations under the Act extend from (a) to (w).

Primary Products Advances.—No. 3038 is an Act under which the Government may advance money to certain companies formed for the purpose of establishing an "undertaking" or carrying on the operations and business of an "undertaking," such "undertakings" being abattoirs and freezing works, chilling chambers and cool stores for meat; cool storage for fish; factories for the manufacture of canned fruit, dried fruit, or jam; flax mills; tobacco curing sheds; and fruit works. A condition of the advance is that a three-fifths majority in number and value of the shares in the company are held *bona fide* by persons engaged in the production of any primary products supplied to the undertaking of the company.

Horse Breeding.—Act No. 3040 requires that stallions shall be registered, and makes such registration conditional on a certificate of soundness from veterinary officers of the Department of Agriculture. Save in the case of thoroughbred stallions mating with thoroughbred mares, no stallion shall be used for stud purposes unless it is registered under the Act.

Agricultural Education.—Act No. 3043 appropriates sums of money, rising from £3,300 in 1920-21 to £5,500 in 1928-9, for the purpose of agricultural education in the University of Melbourne. There is to be a Faculty of Agriculture, of whose members at least one-half are to be appointed by the Governor in Council, students are to be admitted to the diploma course without matriculation, free places are to be provided by the University in such number as the Minister determines, and the Minister is to nominate the persons for such free places. The University is to recognise approved courses of work done at agricultural colleges, and may recognise in lieu of its examinations and studies approved courses of studies completed by examinations passed thereon by students: (a) of any correspondence courses or tutorial classes; (b) of any approved agricultural college, working-men's college, technical school, high school, or secondary school. The staff of the Department of Agriculture in the University is to investigate and report to the Minister on any matter which he requires to be investigated.

Acts of Indecency.—No. 3025 makes it a misdemeanour for any male person in public or in private to commit any act of gross indecency with or in the presence of any girl under the age of sixteen years; or to incite or procure or to attempt to procure the commission by any such girl of any act of gross indecency with or in the presence of the accused, or with any other person in the presence of the accused, or otherwise to be a party to the commission of any act of gross indecency by or with or in the presence of any such girl, or by or with any other person in the presence of such girl, or by any such girl with any other person in the presence of the accused. Two years' imprisonment may be awarded

for the first offence, and three years for a second or any subsequent offence. The consent of the girl is made immaterial. A law officer must sanction a prosecution.

The Act also provides punishment (not exceeding three years' imprisonment) in the case of a male person committing in public or private any act of gross indecency with another male person, and in the case of indecent assault on a male person enacts that the consent of a boy under sixteen years is to be no defence.

County Court.—No. 3027 covers a defect in the principal Act in the procedure on a special summons issued to recover a debt or liquidated demand, and provides for admission of service by the defendant's solicitor being sufficient without any affidavit of service, if such admission is filed with the summons.

7. WESTERN AUSTRALIA.

[Contributed by F. L. Stow, Esq., LL.D.]

The legislation for 1919 comprises sixty-three Acts, of which twelve were passed during the second and the rest during the third session of the tenth Parliament. The following is a review of those measures which may be of some general interest.

Vermin.—No. 2 is an Act to provide for fencing against vermin and the destruction of vermin. Introduced as a consolidating measure applicable to the whole State, it was restricted during its passage through the Houses to the south-west portion. It provides for a central administration whose activities extend over the whole area subject to the Act, and for local administration, which will be vested in the hands of Vermin Boards for the various districts.

These Boards are for the first year appointed by the Governor, but afterwards become elective.

The Act contains provisions (which are frequently used) whereby Road Boards are appointed to act as Vermin Boards.

Large rating powers are given to Boards, and provision is made for Boards obtaining loans from the Government to assist them in carrying out their duties under the Act.

The most important part of the Act is that relating to fencing. The great problem is to arrest the invasion of rabbits, which, in spite of the existence of great barrier fences erected by the Government, are succeeding in progressing westwards over the agricultural areas.

Power is given to the Government or any Board to erect vermin fences and rabbit-proof fences, and to improve existing fences. An obligation is imposed on the owner of a holding who receives benefit from a fence to contribute to the cost of erection or maintenance of such fence.

The Act facilitates arrangements between owners of adjoining holdings whereby, instead of each having a separate fence, they may join in the erection of one ring-fence enclosing all the holdings.

The Act also makes provision for compelling owners of holdings to fence all dams and other water supplies, so as to prevent the access of rabbits thereto—a drastic method of warring with the pest.

A feature of the Act, brought over from previous legislation, is the provision whereby the Government or a Board may supply settlers with wire netting to fence their holdings. Payment of the cost is to be secured

by mortgage, and the owner of a holding may be compelled to join in a mortgage to secure payment of the price of wire netting supplied on the application of the occupier.

The Minister administering the Act, and each Board within its district, are empowered to take all such means as may be deemed expedient for the destruction of vermin, and an obligation is imposed on owners of holdings to destroy the vermin on their holdings at their own cost and expense. In addition, the Minister and Boards have the right to direct by notice in the *Gazette* a systematic campaign by the owners and occupiers of holdings against vermin, and such owners and occupiers are obliged to join in the campaign and take the steps prescribed under a heavy penalty.

Agricultural Lands Purchase.—No. 7 is an Act to amend the Agricultural Lands Purchase Act, 1909. That Act was passed in order to make better provision for the purchase of lands suitable for immediate settlement on the land, and the principal objects of the amendment are to enable better terms to be given to persons to whom the acquired lands are disposed of by the Government, and to enable the Government to acquire land compulsorily for the purposes mentioned.

Thus provision is made by s. 9 that the selling price of the land, with interest, shall henceforward be payable by half-yearly instalments extending over a period not exceeding thirty years, or, if the purchaser is a discharged soldier, by half-yearly instalments extending over a period not exceeding forty years. It is further provided that, if the land is taken up by a discharged soldier or dependent, the Minister may make the conditions more favourable still.

The powers of compulsory acquisition are conferred to empower the Government to acquire private land for the settlement of discharged soldiers or their dependents under the provisions of the Discharged Soldiers' Settlement Act (reviewed below). In general, these powers are only available in respect of private land exceeding in value £5,000.

Forests.—No. 8 is an important measure consolidating and amending the law relating to the management and protection of forests.

The Act establishes a Forests Department, with a Minister as its political head and a Conservator as its permanent head.

The Conservator is charged with the duty of classifying, subject to ministerial approval, the forest lands of the State for the purpose of determining which of the lands are suitable to be:

- (a) Permanently dedicated as State forests; or
- (b) Reserved from sale as timber reserves.

Land dedicated as a State forest must not be dealt with or disposed of as ordinary Crown Lands under the Land Act, and the dedication cannot be revoked without the consent of Parliament.

Timber Reserves may be established or revoked at any time by the Governor, but no revocation shall be ordered unless a report on the matter from the Conservator has first been obtained.

Timber Reserves may not be dealt with as ordinary Crown Lands under the Land Act except with the approval of the Conservator.

The Conservator is required from time to time to prepare working plans for each State forest and timber reserve. Such plans shall, subject to existing rights under concessions, leases, and permits, regulate the management of such State forest or timber reserve for a period of not more than ten years.

A working plan may specify :

(a) The maximum area from which forest produce may be taken annually ;

(b) The maximum of forest produce that may be disposed of annually ;

(c) The silvicultural operations necessary to assure the regeneration of the best species of forest produce on areas which have been cut over ; and (d) Such other matters as the Conservator may think fit.

The Conservator is empowered to grant : (a) Permits ; (b) Licences ; (c) Forest Leases.

A permit confers on the holder the exclusive right to take and remove any timber or other forest produce therein specified on and from that portion of a State forest, timber reserve, or other Crown land therein defined. It may confer a right to occupy land as a site for a sawmill, to work a mill for sawing and treating timber, or to make roads and construct and work tramways. Permits may not exceed ten years in duration, but may be renewed, and are subject to the payment by the holder of royalties for all forest produce taken.

Licences authorise the licensees, in common with other licensees, to take and remove the timber or other forest produce therein specified on and from Crown land within a State forest, or timber reserve, or on or from other Crown land, and may be granted subject to payment of fees and royalties.

Forest leases may be granted with the approval of the Minister for any term not exceeding twenty years over land in a State forest for grazing, agricultural, or other purposes not opposed to the interests of forestry.

Three-fifths of the revenue of the Department has to be placed to the credit of a special account at the Treasury, and forms a fund for the improvement and reafforestation of State forests and the development of forestry.

Discharged Soldiers' Settlement.—No. 19 is an Act to provide for the settlement of discharged soldiers on the land.

This Act is, under the control of a Minister, administered by a Board called "The Discharged Soldiers' Settlement Board."

The Board's duties include :

(a) The investigation of the qualifications of every discharged soldier who has registered his name with the Board, and the issue of a certificate to him in case he is found to possess the necessary qualifications ;

(b) Inquiring into applications of discharged soldiers or their dependents desiring to settle on the land, or to avail themselves of the provisions of the Act ;

(c) The decision of the claims of rival applicants ;

(d) Recommending to the Agricultural Bank what assistance shall be given and what advances made to applicants.

The Minister is empowered, subject to the Governor's approval, to set apart any areas of Crown land for the purpose of being disposed of under the Land Act, 1898, to discharged soldiers exclusively.

The Minister may also, with the like approval, set apart any area of Crown land for the purposes of the Act, and such land may be subdivided as the Minister thinks fit and may be disposed of to discharged soldiers.

Any discharged soldier desiring to apply for any such land must first obtain a certificate from the Board that he is physically fit and suitable as a settler, or that he is likely to prove suitable after training.

The price of such land is payable in easy instalments provided under the land laws, and in addition is to be one-half what it would be to any other than a discharged soldier ; but the benefit of this reduction does not extend to an assignee unless he is also a discharged soldier or is a surviving relative taking the land after the decease of the discharged soldier who was the holder of it.

The reduction is not granted in the case of land which has been repurchased by the Crown.

The Board is given wide powers of preparing the land for settlement by clearing, draining, fencing, and otherwise, but the cost of these operations is treated as an advance made to the settler by the Board, repayable in one sum or by instalments.

The Board may also grant assistance to soldier settlers for the purpose of enabling them to :

(a) Clear, fence, drain, grade, irrigate, and generally improve the land allotted to them ;

(b) Erect buildings and provide household furniture and effects ;

(c) Purchase implements, live stock, seeds, plants, trees, and other things necessary for the profitable use of the land.

The Agricultural Bank is empowered on the recommendation of the Board, and for the purposes aforesaid, to make advances to a discharged soldier who has taken up land under the Act.

The rate of interest for the advances to an amount not exceeding £625 is not to exceed $3\frac{1}{2}$ per cent. for the first year, 4 per cent. for the second, and so on, the rate increasing by not more than $\frac{1}{2}$ per cent. for each subsequent year until it reaches the ordinary current rate.

Moneys advanced under the Act are to be secured by mortgage on the land, and are a charge on the crops and chattels of the discharged soldier.

The Governor is given power to reserve sites for dwellings for returned soldiers to be erected by voluntary efforts.

The Act also provides for group settlements of returned soldiers.

The land set apart for the settlement is subdivided into blocks, which are called "home maintenance areas." A soldier joining a group and having a block allotted to him does not get his title till after twelve months' probation, during which his right to the allotment may be cancelled if he is found to be unsatisfactory.

The Minister, on the recommendation of the Board, may purchase any alienated land which a discharged soldier having a qualification certificate may desire to acquire under the Act, and the land may be disposed of to him under and subject to the provisions of the Act.

The Act also provides for the establishment of training farms for discharged soldiers.

Crown Suits.—No. 14 is an Act to amend the Crown Suits Act. It applies to suitors who recover against the Crown small amounts in the Supreme Court, the restrictions as to costs which are applicable in actions between subject and subject, and which are similar to those contained in the English County Courts Act.

The Act also facilitates the institution of proceedings against the Crown in the local courts for amounts not exceeding £100.

Anzac Day.—No. 17 is an Act to provide for the observance of April 25 (Anzac Day) as a public holiday.

Justices' Procedure.—The main purposes of No. 19 (The Justices' Act Amendment Act) are:

1. To extend the Justices' Act, 1902, to cover all matters over which justices have jurisdiction, and to provide for applying to all orders and judgments, under whatsoever Act made, the methods of enforcement provided in the Justices' Act as amended by this Act.

2. To provide that the term of imprisonment in default of payment of a fine or sum of money shall be strictly proportionate to the amount, and that, if the defendant pays part, his imprisonment shall be proportionately reduced.

3. To provide (in lieu of appeal on a case stated) a method of appeal for error in law or fact by way of order to review, which may be heard by the full court or by a judge sitting in court.

The system of appeal referred to is adapted from the Victorian Justices' Act, 1915. It applies both to errors in law and in fact, and the appeal may be heard either before the full court or before a judge in court. The party desiring to appeal will first have to satisfy the judge that there is a *prima facie* case of error. The judge may thereupon grant an order to review, which is to be served on the parties interested in the appeal, and the grounds of the appeal must be stated in the order, but power to amend those grounds is given. When the matter comes up for decision, the fullest powers are given to review, alter, amend, quash, or affirm the conviction or order appealed from.

Protection of Children.—No. 21 makes various amendments in the law relating to children. The principal are as follows:

1. A child shall not be imprisoned for non-payment of a fine, but may be sent to an institution instead, and a child shall, during any period of remand or whilst he is under committal for trial, be kept in an institution, not in gaol.

2. People are prohibited from:

(a) Causing children under sixteen to beg, whether under colour of singing or performing or otherwise;

(b) Causing or suffering children under fourteen to work or be employed in or about any racing stable or in connection with the training of race-horses;

(c) Causing or procuring (except with the licence of the Minister) any child under the age of sixteen to be in any place of entertainment for the purpose of singing, playing, or performing for profit; but this does not apply in the case of an occasional entertainment for charitable purposes.

3. No person will be permitted to keep, use, or manage any place for the purpose of receiving or keeping in his care, apart from their parents, two or more children under the age of sixteen, except pursuant to a licence granted by the State Children Department.

4. People are prohibited from publishing, without the permission of the Department, any advertisement offering to adopt any child or to take care of any child under the age of six. No premium or reward may be paid or offered to any person for the maintenance or care of any child under six, but the Department may allow reasonable periodical payments to be made on that account.

There is an absolute prohibition on the payment of premiums for the adoption of children.

5. The home or residence of any illegitimate child under the age of

six is to be open to inspection by any female officer authorised by the Department. The birth or death of any illegitimate child is to be specially reported to the proper authority by the occupier of the house in which it occurs. These provisions, however, do not apply in respect of an illegitimate child that has been adopted or legitimated, or that is living with and cared for by the mother.

6. Any person who has, either by wilful misconduct or habitual neglect, or by any wrongful or immoral act or omission, encouraged or contributed to the commission of any offence by any child, or caused or suffered the child to become a neglected child, is rendered liable to a fine of £30 or imprisonment for three months.

Slaughter of Calves.—No. 22 is an Act for preventing the slaughter of female calves under the age of six months, without the permission of the Chief Inspector of Stock.

Inebriates.—No. 29 empowers the Governor to approve of establishments conducted or carried on by any person or body of persons, society, or association, as places in which inebriates may be confined for treatment.

Statute of Limitations Suspension.—No. 31 suspends the operation of the Statute of Limitations in respect of any debt during the time that payment of such debt was postponed under war legislation.

Divorce.—No. 33 effects important amendments in the law relating to divorce and matrimonial causes.

The Act adopts the provisions of the English Statute, 47 & 48 Vict., c. 68, regarding suits for the restitution of conjugal rights. It prohibits the enforcement of decrees in such suits by attachment, and gives the court power to make orders with regard to the settlement of property and the custody of children in such suits.

The Act further provides that failure to obey an order for restitution of conjugal rights is equivalent to desertion.

Desertion in England is not by itself a ground for divorce, but for judicial separation only. In Western Australia, however, it is a ground for divorce if continued for five years. The Act therefore, logically enough, proceeds to enact that when a decree for restitution has been disobeyed the petitioner, in a suit instituted for the purpose, may apply to the court and obtain a dissolution of the marriage or a sentence of judicial separation, although the period of five years or two years, as the case may be, has not elapsed since the decree for restitution.

A further important innovation is the provision allowing a husband or wife married on or after January 1, 1919, to petition for divorce on the ground of the antenuptial incontinence of the other party with some person other than the petitioner; but in the case of a marriage celebrated before the Act the petition must be presented within six months after the commencement of the Act, and in the case of other marriages within nine months after the celebration thereof.

This provision, however, only applies when the incontinence has resulted, in the case of the woman, in her own pregnancy existing at the date of the marriage, and, in the case of the man, in the pregnancy (existing at such date) of some woman.

Road Districts.—No. 38 is an Act relating to roads outside municipal districts, and to consolidate and amend the law relating to the constitution and local government of road districts. It is, in the main, a re-enactment of the Roads Act, 1911, reviewed in a previous volume of this journal;

but it extends the powers of local government vested in Road Boards, and now, in addition to the ordinary powers over roads and highways, the following are amongst the powers possessed by these bodies :

(a) Power with the consent of the Government to construct reservoirs and to provide a water, or to contract for the provision of a water, supply with any person or Government department, and to render any such supply available by means of reticulation ;

(b) Power to acquire works for the supply of electric light or power, and to supply such light and power to private persons or public authorities ;

(c) Similar powers with regard to gas ;

(d) Power to subsidise hospitals for the reception of the sick, whether within or outside the district.

Parliament has not yet seen fit to provide for the principle of " one man one vote " in Road Board elections, but it has made a step in that direction by providing that, no matter how many wards there may be in a district, or how extensive or numerous may be the properties held or occupied by any ratepayer, he shall have no more than four votes.

The Act makes many other alterations in the law, but they are in matters of detail and not of general interest.

Fruit Cases.—No. 40 prohibits fruit being sold or exported from the State to any place within the Commonwealth unless it is packed in a standard case.

The standards for fruit cases will be fixed by the Governor by regulations made under the Act, but a margin of variation from the standard will be allowed.

Every case must show the maker's name and address and a guarantee of its capacity legibly printed thereon.

A case must also have printed thereon the name and address of the grower of the fruit and the name of the district in which the grower's orchard is situated, together with the name of the fruit and the net weight or the number and size of the fruit.

People will be prohibited from altering the markings on fruit cases.

With certain exceptions, no person will be permitted to sell or export fruit in a case which has been previously used for any purpose, and no person will be allowed to consign or send by any railway any case, either empty or full, which has previously been used for containing fruit.

Occupiers of factories in which fruit is used for the manufacture of articles used for food and drink will have to be registered, and will be required to keep accounts of all their purchases.

Extensive powers are vested in inspectors for the enforcement of the Act, and the Governor also has power to make regulations to carry the Act into effect.

Municipal Corporations.—No. 42 is an Act to amend the Municipal Corporations Act. The principal amendments are those qualifying women for election as mayors or councillors, and providing for the use of the preferential system of voting in municipal elections.

Duration of Parliament.—No. 48 provides for the extension or curtailment of the duration of every Legislative Assembly to such an extent that the date of its expiry shall always be the 31st of January.

Sand-drift.—No. 51 provides means for dealing with sand-drifts, and enables local authorities to require owners and occupiers of lands to prevent a sand-drift from their lands by planting marram grass or other-

wise. If default is made in complying with the requisition, the local authority may do the work itself and recover the cost from the owner and occupier, such cost until payment being a charge on the land.

Price-fixing.—The purpose of No. 53 is to enable the prices of food-stuffs and necessary commodities to be regulated. The Act empowers the Governor to appoint three Commissioners, who are to have power to summon witnesses and make inquiries for the purposes of the Act. Upon the recommendation of the Commissioners, the Governor may proclaim areas within which the Act shall apply, and on the like recommendation the Governor may :

(a) Determine the maximum price, whether retail or wholesale, which may be charged for food-stuffs and necessary commodities in any proclaimed area ;

(b) Determine the conditions of the sale of food-stuffs and necessary commodities in any proclaimed area.

Penalties are imposed on persons charging prices in excess of those fixed, and also on persons refusing to sell at the price fixed.

By s. 15 of the Act any person who sells any food-stuff or necessary commodity subject to any condition in restraint of trade is guilty of an offence.

A condition in restraint of trade is one that has the effect of restricting the sale of any food-stuffs or necessary commodities retail below a certain price, or whereby free competition in the retail sale and the price to the consumer is prejudicially affected.

Education (No. 55).—The principal object of this Act is to ensure the education of blind, deaf, or mute children.

The Act enunciates the principle that it is the duty of every parent of a blind, deaf, or mute child to provide suitable and efficient education for such child between the ages of six and sixteen.

Parents may obtain the assistance of the Minister of Education in having such children placed in a suitable institution.

If any parent neglects his duties under the Act, a Court of Summary Jurisdiction may order the neglected child to be placed in an institution.

In every case parents, if of sufficient means, are required to contribute to the support of any of their children placed in institutions.

Electoral.—No. 59 provides a system of compulsory enrolment of electors for the Legislative Assembly similar to that provided under the legislation of the Commonwealth.

Traffic (No. 60).—This Act consolidates and amends the law relating to the licensing and use of vehicles and the regulation of traffic. Part II. provides for the licensing of all vehicles. The fees are in most cases increased, and a new method of calculating the fee is provided in the case of motor vehicles, the amount of the fee depending on the weight and the horse-power with, in the case of vehicles used for the carriage of goods, the added factor of the carrying capacity. The granting of licences is, in general, in the hands of the local authorities, but in the Metropolitan Area the Minister is the licensing authority, and distributes the licence fees amongst the various local authorities interested in such proportions as he considers just.

Part III. provides for the appointment of traffic inspectors. In most cases these will be officers of the local authority ; but in the Metropolitan Area the regulation and control of traffic is to be in the hands of the police.

In Part IV. of the Act the licensing of motor drivers is insisted on. The responsibility for this matter is vested in the Police, and no licence is to be granted to any person unless he shows that he possesses sufficient skill in driving.

New provisions relating to the width of tyres are enacted, but the time of their becoming operative is postponed.

Very extensive powers of making regulations regarding traffic are set out in this part of the Act. All powers of making by-laws on this subject are excised from the Municipal Corporation and Road Acts, and are vested by this Act in the Governor instead of as formerly in the local authorities.

Parliamentary Salaries.—No. 63 is the concluding Act of the session, and provides for the increase of the salaries of all Members of Parliament (except Ministers) from £300 to £400 per annum.

8. PAPUA.

[*Contributed by the HON. MR. JUSTICE HERBERT.*]

1918.

Ordinances passed—16.

Public Service.—The Superannuation Ordinance, 1917 (3 of 1918), provides for allowances and gratuities to officers on retirement after twenty years' service or at fifty-four years of age, or on retirement at any time through ill-health. An officer retiring after serving ten years is entitled to a superannuation allowance of one-forty-second of his annual salary for each year of service, limited in any case to one-third of his salary. An officer retiring before completing ten years' service is entitled to a gratuity of half a month's salary for each half-year's service. A Superannuation Fund Account is created to which an officer contributes 5 per cent. of his annual salary. Officers now in the Service may contribute to the Fund in respect of past services. The management of the Fund is in the hands of a Board of three officers (two appointed, one elected). Provisions are made for Audit and for quinquennial actuarial investigation. The Fund is guaranteed by the Public Revenue of the Territory.

The Superannuation Ordinance, 1917, No. 2 (4 of 1918), authorised the payment (out of appropriations) of the contributions to the Superannuation Fund Account (see above-mentioned Ordinance) of officers in receipt of a salary not exceeding £250 per annum. The Ordinance is no longer operative, salaries having since been fixed at a minimum in excess of £250.

The Superannuation Ordinance, 1918 (6 of 1918), amends No. 3 of 1918 principally by newly defining "Officer" by permitting, under certain circumstances, an unbroken period of service immediately preceding the appointment of an "Officer" to be counted in computing his term of service; and by empowering the Lieutenant-Governor to appoint all three members of the Board, who need not be members of the Public Service.

Native Crown Servants.—The Native Crown Servants' Ordinance, 1917 (10 of 1918), increases the penalty for breaches by Native Crown Servants of their agreements, and declares all contracts made by them during their period of service absolutely void.

Taxes.—The Native Taxes Ordinance, 1917 (11 of 1918), imposes a tax upon all taxable natives (males between sixteen and thirty-six years of age) who are native labourers whose residence is in districts in which the tax is made payable by Order in Council. The annual amount is limited to 10s. for natives under contract of service and 20s. for others. It may be paid in money, or, by permission, in kind or by labour. It may be imposed as a communal tax upon a village or district instead of upon individuals. Members of Armed Constabulary, village constables, mission teachers, and fathers of no less than four children are among those who are exempted. The Lieutenant-Governor may remit the tax in favour of either individuals or districts. The proceeds of the tax, after deduction of the expenses of collection, etc., are paid into a "Native Education Fund," to be applied for purposes of the general and technical education of natives, or other purposes having for their object the direct benefit of the natives of the Territory.

Public Health.—The Health (Venereal Diseases) Ordinance, 1918 (13 of 1918), forbids treatment of venereal disease by other than authorised persons, and compels sufferers to place and keep themselves under treatment till cured. It requires notification by medical practitioners to the Government Secretary of all cases under treatment, without mentioning the name of the patient so long as he continues under treatment. Provision is made for compulsory examination, detention, and treatment of sufferers. The Ordinance forbids publication of advertisement of cures for venereal diseases; enjoins secrecy on the part of officials, and contains other provisions in the main incidental to those mentioned.

Pearl Shell and Bêche-de-Mer Fishery.—The Pearl, Pearl Shell, and Bêche-de-Mer Ordinance, 1918 (14 of 1918), is an amending Ordinance by which fishing for trochus shell is made a part of the pearl shell and bêche-de-mer fishing, and the minimum size of trochus shell that may be taken is fixed.

1919.

Ordinances passed—II.

Native Plantations.—The Native Plantations Ordinance, 1918 (1 of 1919), provides for the establishment of native plantation reserves, a prescribed area of which each able-bodied male native villager between the age of sixteen and thirty-six years, and living within a distance of five miles, is to clear, plant, fence, and cultivate. The work may be taken in payment of the tax, under the Native Taxes Ordinance. The Government may supply plants and seeds. The native villagers are to harvest and collect the produce. One-half of the produce is to belong to the villagers and may be sold by the Government on their account. The proceeds of the other half, after payment thereof of realisation expenses, are to be paid by the Government into the credit of a Native Education Fund created by the Native Taxes Ordinance, 1917.

Prisons.—The Prisons Ordinance, 1919 (4 of 1919), repeals the Ordinances of 1889 and 1890 relating to prisons, and contains provisions for prison managing and control, varying little from those regulating similar institutions in countries similarly circumstanced.

Customs Tariff.—No. 6 of 1919 substitutes new rates of import duty on various articles for those imposed by the Customs Tariff, 1915-16.

The articles are, for the most part, drugs, many of which are now made free of duty.

Criminal Code.—No. 7 of 1919 amends the Criminal Code by permitting deportation within the territory of a native who is convicted of an indictable offence, and (a) who has been previously convicted, or (b) has been conducting himself so as to be dangerous to the peace and good order of any part of the territory. Such deportation may also be made the condition of a remission of a death sentence.

Land.—No. 8 of 1919 amends the Land Ordinance, 1911-16, by repealing provisions for special leases to discoverers of shale and mineral oils.

Native Labour.—No. 9 of 1919 amends the Native Labour Ordinance, 1911-16. The principal amendments relate to the following matters:

The provisions regarding recruiting are relaxed. A magistrate is given a discretionary power to cancel summarily a contract of service when a native is the successful party to a complaint for an offence under the Ordinance. No wages are payable to a native whilst a patient in a Government hospital, unless his illness is caused through the default of his employer or in the usual course of his employment. The alternative of fine or imprisonment is given in cases of desertion instead of imprisonment only. Official inquiries may be made regarding the recruiting, the engagement, and welfare of natives under contract. Attendance at such inquiries by natives is made compulsory.

9. NEW ZEALAND.

[Contributed by JAMES CHRISTIE, ESQ., LL.M., *Parliamentary Law Draftsman.*]

The session of 1919 lasted only for a period of ten weeks, and was marked by the dissolution of the "National Government" and the resumption of the "party" system. Notwithstanding these political changes, an unusually large amount of important legislation was passed.

The Acts passed comprise 55 Public Acts, 22 Local and Personal Acts, and 1 Private Act.

Expiring Laws Continuance.—The Expiring Laws Continuance Act (1919, No. 1) relates only to the Mortgages Extension Act, 1914, and its amendments. These enactments were due to expire on August 31, 1919; the "Continuance" Act was passed on the immediately preceding day, and provided for an extension of their duration until August 31, 1920. By later legislation, however (Mortgages Extension Act, 1919, No. 8), the Acts in question were repealed, and new provision was made with respect to the protection of mortgagors under then existing mortgages only.

Certain other enactments were allowed to expire and were afterwards revived. (See the Statutes Repeal and Expiring Laws Continuance Act, 1919.) This unusual procedure is accounted for by an objection on the part of Members of Parliament to agree to a further extension of the enactments in question until a proper opportunity of considering the merits of the proposed extension had been given.

Financial Assistance for Discharged Soldiers.—The Discharged Soldiers' Settlement Loans Act (1919, No. 2) authorises the Minister of Finance to borrow the sum of £12,500,000 for purposes of the Discharged Soldiers' Settlement Act, 1915. (The original loan authority was £50,000

only: see *Review of Legislation*, 1915, pp. 109, 110.) Authority is also given to borrow £2,000,000 in each of the years 1920 and 1921, and £1,000,000 in each year thereafter, for the purpose of acquiring land under the Land for Settlements Act, 1908, for disposal to discharged soldiers. The loan of £12,500,000 is declared to be a "war-purposes loan," and the provisions of the Finance Act, 1918 (No. 2), with respect to compulsory contributions, etc., are applied. (See also No. 49.)

Land and Income-tax.—The Land and Income-tax (Annual) Act (1919, No. 3) fixes the rates of land-tax and income-tax (including a special war-tax) to be payable for the financial year commencing on April 1, 1919. The rates are the same as those fixed for each of the two preceding financial years.

Payment of Jurors.—The Payment of Jurors Act (1919, No. 4) enables the Governor-General, by Order in Council, to prescribe rates for the payment of jurors in respect of their attendance at sittings of the Supreme Court and at coroners' inquests. Formerly the rates were prescribed by statute, and the statutory rates were deemed to have become inadequate (having regard to the steadily increasing cost of living).

Public Trust Office.—The Public Trust Office Amendment Act (1919, No. 6) makes provision for the extension of the business of the Public Trust Office by removing restrictions as to the number of Local Deputies of the Public Trustee that may be appointed. (See *Journ. of Comp. Leg.*, vol. xvi., p. 120.)

Auckland University College Site.—The Auckland University College Site Act (1919, No. 7) vests in the Auckland University College Council, in trust as a site for a University College, certain land originally reserved for the purposes of a Government House at Auckland.

Mortgages Extension.—The Mortgages Extension Act (1919, No. 8) repeals the Mortgages Extension Act, 1914,¹ and its amendments; and re-enacts their provisions with certain amendments. The application of the new Act is limited, however, to mortgages existing on the date of its commencement (*i.e.* October 24, 1919). The protection afforded by the Act now under review is effective only until December 31, 1920, except that the Supreme Court is empowered, on application by any party to a mortgage, to *extend the mortgage* to a date not later than December 31, 1921. An important departure from the scheme of the original Act is the provision made by s. 5, whereby a mortgagee is not required to obtain the leave of the Court to exercise his powers under the mortgage unless, after notice of intention given, the mortgagor does not object in writing to the exercise of those powers. The only other alteration of importance is in s. 13, which confers jurisdiction on a Stipendiary Magistrate (in lieu of the Supreme Court) with respect to mortgages where the principal moneys do not exceed £500.

Education.—The Education Purposes Loans Act (1919, No. 9) empowers the Minister of Finance to borrow, within the next five years, an aggregate amount of £3,500,000, to be expended on the acquisition of land and the erection of buildings for purposes of primary and higher education (including the erection and equipment of students' hostels). (See also Nos. 12 and 29.)

Fishing Industry.—The Fishing Industry Promotion Act (1919, No. 11) authorises the Minister of Finance to borrow moneys (not exceeding

¹ See *Review of Legislation*, 1914, p. 122.

£25,000 in any financial year) for the purpose of making advances by way of loan in assistance of the fishing industry. The Act is administered by the Minister of Marine, who is empowered to make loans for the establishment of cool-storage plants, the preserving of fish, the purchase and equipment of fishing-boats, and otherwise in assistance of the fishing industry.

Education.—The New Zealand University Amendment Act (1919, No. 12) makes provision for the payment of increased grants to the New Zealand University and the four affiliated institutions, the aggregate increase amounting annually to the sum of £13,500. A further amount of £500 is provided for each affiliated institution, to be applied exclusively for the purposes of workers' extension lectures.

Post and Telegraph.—The Post and Telegraph Amendment Act (1919, No. 13) consists of a number of administrative amendments of the principal Act, of which few are of sufficient general interest to merit special mention.

S. 10 relates to deposits in the Post Office Savings Bank standing to the credit of deceased depositors. It provides that, where the amount involved does not exceed £100, and probate or letters of administration have not been produced within a reasonable time, the Postmaster-General may distribute the amount among the persons whom he deems entitled thereto. In making such distribution, the Postmaster-General is required to have regard to the rules of law for the distribution of the estates of persons dying intestate, but is not bound by those rules if he considers that injustice or undue hardship would result from their strict observance.

S. 18 makes provision for the issue of regulations authorising the Postmaster-General to accept for safe custody any documents or articles of value; it provides that the acceptance of any such document or article shall not impose on the Crown, or on the Postmaster-General, or on any Post-Officer, any liability in respect of its loss or damage, except in case of wilful default or wrongdoing.

Agricultural Education.—The purpose of the Howard Estate Act (1919, No. 14) is to give legal effect to the will of the late Josiah Howard, who devised and bequeathed all his real and personal property to His Majesty the King, "without restriction or limitation, but in confidence that the Government of the Dominion of New Zealand would use the property as a foundation or endowment for the purposes of agricultural education." The estate comprises lands of an aggregate area of 8,000 acres, of which the approximate value is £100,000.

Board of Trade and Cost of Living.—The Board of Trade Act (1919, No. 15) is designed "to make better provision for the maintenance and control of the industries, trade, and commerce of New Zealand." It provides for the constitution of a Board to be known as the "New Zealand Board of Trade," which is declared to be identical with the Board of Trade established by the Cost of Living Act, 1915 (see *Review of Legislation*, 1915, p. 112). The Board as originally constituted had conferred on it the powers of a Commission under the Commissions of Inquiry Act, 1908, but it was found by experience that these powers were insufficient to enable the Board to carry out its functions. The present Act is much more comprehensive and explicit. The following is an outline of the main provisions.

The Act establishes a Department of State to be called "the Department of Industries and Commerce," charged with the administration of

the Act. There is also established the New Zealand Board of Trade, consisting of a President (who is the Minister of Industries and Commerce for the time being) and four other members appointed by the Governor-General for a period of five years, subject to removal from office on grounds of inefficiency, disability, insolvency, neglect of duty, or misconduct. The functions of the Board of Trade are :

(1) To obtain information as to the industries of New Zealand by means of " investigations " and " judicial inquiries."

(2) To publish with respect to those industries such information as the Board deems of advantage to the public ;

(3) To procure (by means of regulations) the due control, maintenance, and development of such industries ;

(4) Such other functions as may be lawfully conferred on the Board.

Board of Trade Inquiries.—The Board of Trade is empowered to hold judicial inquiries " for the purpose of obtaining information which may be required for the due control, regulation, and maintenance of the industries of New Zealand ; the due observance, enforcement, or amendment of the laws relative thereto ; the discovery of breaches of those laws ; the prevention or suppression of monopolies, unfair competition, and other practices detrimental to the public welfare ; the proper regulation in the public interest of the prices of goods and the rates of services ; or for any other purpose relative to the industries of New Zealand."

For the purpose of conducting any such inquiry the Board is empowered to hear evidence on oath, to summon witnesses, to require the production of books and other documents, and to make extracts from any such books or documents.

Any person who gives wilfully false evidence in any such inquiry is guilty of perjury. For the purpose of assisting in the conduct of a judicial inquiry, the Board is empowered to associate with itself one or more persons deemed to be possessed of expert knowledge of advantage to the Board. Associates of the Board are for the time being deemed to be members of the Board. In lieu of holding a " judicial inquiry " in any case, or in addition to such inquiry, the Board is empowered to make " investigations." For the purpose of such investigations, the Board may by order require any person, firm, or corporation engaged or concerned in any industry to answer *in writing* any questions relating to that industry, or to produce any books or documents relating thereto.

The powers of the Board with respect to judicial inquiries or investigations may be delegated by the Board to any one or more of its members.

Information derived by the Board in the course of any inquiry or investigation may be published by the Board for public information, and such publication is deemed to be absolutely privileged for purposes of the law of defamation.

Board of Trade Regulations.—By s. 26 the Governor-General is empowered to make " Board of Trade Regulations " for the following purposes :

" (a) For the prevention or suppression of methods of competition, trading, or business which are considered to be unfair or prejudicial to the industries of New Zealand or to the public welfare ;

" (b) For the prevention or suppression of monopolies and combinations in or in relation to any industry which are considered to be prejudicial to that or any other industry in New Zealand or to the public welfare ;

"(c) For the establishment of fixed or maximum or minimum prices or rates for any classes of goods or services, or otherwise for the regulation or control of such prices or rates ;

"(d) For the prohibition, regulation, or control of differential prices or rates for goods or services, or the differential treatment of different persons or classes of persons, in respect of goods or services in cases where the existence of such differential prices, rates, or treatment is considered prejudicial to any industry in New Zealand or to the public welfare ;

"(e) For the regulation and control of industries in any other manner whatever which is deemed necessary for the maintenance and prosperity of those industries and the economic welfare of New Zealand."

Profiteering.—S. 32 is designed to prevent what is commonly known as "profiteering." It declares it to be an offence for any person, either as principal or agent, to sell or supply, or offer for sale or supply, any goods at a price which is unreasonably high. For the purposes of the section the price of goods is deemed to be unreasonably high if it produces, or is calculated to produce, more than a fair and reasonable rate of commercial profit.

The penalty for "profiteering" in the case of an individual is a fine not exceeding £200, or imprisonment for three months, and in the case of a corporation a fine not exceeding £1,000.

The Board of Trade Act is the most important Act passed during last session. With respect to matters within its purview it confers almost unlimited powers on the Executive Government and the Board of Trade, and provides drastic penalties for offences. With the exception of certain provisions of minor importance added in Committee, the Bill was drafted by Sir John Salmond, then Solicitor-General for the Government of New Zealand.

Women in Parliament.—The Women's Parliamentary Rights Act (1919, No. 16) confers on women the right to be elected, and to sit and vote, as members of the House of Representatives. As originally introduced in and passed by the Lower House, the Bill applied also to the Legislative Council ; but that Chamber took exception to it on the ground of privilege, and, on a point of order, amended the Bill by limiting its application to the House of Representatives. At a later date a second Bill to permit of the appointment of women to the Council was introduced by the Leader of that Chamber, but this latter Bill was also rejected. It is to be remembered, however, in this connection, that by s. 18 of the Legislative Council Act, 1914 (which came into force on January 31, 1921), it is provided that "so soon as women are eligible for election as members of the House they shall also be eligible for nomination and election as members of the Council." The position, therefore, was that, while the system of appointment remained in force, women could not be appointed to the Legislative Council, but when the elective system came into operation on January 31, 1921, they became eligible for election.

Official Appointments and Documents.—The object of the Official Appointments and Documents Act (1919, No. 18) is to relieve the Governor-General of the necessity of personally executing certain documents of appointment and other similar instruments. Although the Act confers a general authority, it is not intended that it should be used except in cases of minor importance. It provides, firstly, that where by any Act or by virtue of his office the Governor-General is required to make any appointment, it shall not be necessary for him in so doing to

execute any warrant or other instrument of appointment ; and secondly, that, where the Governor-General is authorised to execute any deed or other instrument relating to land, such deed or instrument may be executed by a Minister of the Crown, acting by direction of the Governor-General. Provision is made for the acceptance of an official notice in the *Gazette* as evidence of the due exercise of any such power of appointment or of the proper execution of any such document.

Police Offences.—The Police Offences Amendment Act (1919, No. 19) constitutes the following new offences, punishable on summary conviction, viz. :

(1) Inciting, encouraging, or procuring disorder, violence, or lawlessness. (This provision is in substitution for certain expiring war regulations as to seditious offences.)

(2) Unlawful taking (not amounting to theft) of motor-cars and other vehicles, etc.

(3) The issue or exhibition of documents falsely purporting to be official documents.

(4) The unauthorised wearing of military decorations. (This provision should be read with the Military Decorations and Distinctive Badges Act, 1918, relating *inter alia* to the improper disposal of military decorations.)

Treaties of Peace.—The Treaties of Peace Act (1919, No. 20) was passed in anticipation of the mandate proposed to be given to New Zealand by the League of Nations in respect of the Government of Western Samoa. The Act will enable the Executive Government, on receipt of the complete mandate, to make provision, by Order in Council, for the civil administration of Samoa. The Act is expressed to remain in force for twelve months only ; in the meantime, comprehensive statutory provision will doubtless be made (somewhat on the lines of the Cook Islands Act, 1915 ; see *Review of Legislation*, 1915, pp. 103-6) with respect to the administration of the islands in question.

External Affairs.—The External Affairs Act (1919, No. 21) is complementary to the Treaties of Peace Act. It provides for the appointment of a member of the Executive Council to be the Minister of External Affairs, and also for the appointment of a Secretary of External Affairs. In anticipation of the completion of the mandate as to Western Samoa, the Minister of External Affairs is charged with the administration of any territory out of New Zealand, which may at any time be a dependency of New Zealand or otherwise be under the jurisdiction of the Government or Parliament of New Zealand. The administration of the Cook Islands is expressly transferred to the Minister of External Affairs.

National Provident Fund.—The National Provident Fund Amendment Act (1919, No. 26) enlarges the benefits receivable under the National Provident Fund Act, 1910, and extends the scope of that Act by providing for the acceptance of contributors up to the age of fifty years (in lieu of the original limit of forty-five years). It also fixes at £300 the maximum limit of the annual salary of which an applicant to become a contributor to the fund may be in receipt without suffering disqualification. The original limit was £200, which was extended in 1914 to £250.

Marriage.—The Marriage Amendment Act (1919, No. 27) provides for the giving in New Zealand of notices of marriage proposed to be solemnised in the United Kingdom, in cases where one of the parties to be married is resident in New Zealand on the giving of the notice. The

Act has been passed to comply with certain conditions precedent to the application to New Zealand of the Marriage of British Subjects (Facilities) Act, 1915 (Imperial).

Public Health.—The object of the Public Health Amendment Act (1919, No. 28) is to remedy certain defects of the law disclosed by the epidemic of influenza which was prevalent in New Zealand towards the end of the year 1918 ; it also remedies certain defects in the " emergency " legislation passed during the continuance of that epidemic. S. 4 confers definite authority on a District Health Officer, acting by authority of the Minister of Public Health, to order certain premises to be closed from time to time, or for fixed times, in order to prevent or check the spread of any infectious disease. Such an order may relate to any place where people are accustomed to congregate ; theatres, hotels, billiard rooms, race-courses, and churches are specifically referred to. To enable the authorities to deal effectively with an outbreak of infectious disease, District Health Officers are empowered, with the authority in writing of the Minister, to take possession of any land or buildings that may be required ; to require the exclusive use of vehicles for the conveyance of patients and of persons in attendance on patients ; to requisition drugs, articles of food, and drink, and any other articles deemed necessary for the treatment of patients.

By the Amendment Act of 1918 it was provided that picture-theatres were not to be open to the public on any day before the hour of two o'clock in the afternoon or between the hours of five and seven o'clock. This provision (regarded as a measure for the protection of the public health) was thought to be unnecessarily restrictive, and has now been repealed. In lieu of the repealed provision specific authority is conferred on all local authorities to make by-laws requiring the proper cleansing, ventilation, sanitation, and disinfection of all such places of amusement and public resort, and requiring the closing of buildings to the public to permit of such precautions against disease being effectively taken.

By s. 9 the Governor-General is empowered to make regulations, of general or limited application, for all matters affecting the public health in respect of which a local authority is empowered to make by-laws. Where such regulations are made necessary by the failure or refusal of the local authority to exercise its powers, a proper proportion of the cost of the administration of the regulations may be recovered from the local authority.

S. 10 repeals the provisions of the Act of 1918 relating to the licensing of lodging-houses and restricting the number of lodgers who may be accommodated therein ; in lieu of the repealed provisions local authorities are empowered to make by-laws with respect to hotels, lodging-houses, boarding-houses, and similar premises, ensuring the provision of adequate air-space, and also of a proper and adequate system of water-supply, sanitation, lighting, and ventilation.

S. 11 requires the " undertaker " or other person having charge of the funeral of a person who has died of an infectious disease to give to the District Health Officer notice of the death and of the cause thereof before the body has been removed for burial.

Education.—The Education Amendment Act (1919, No. 29) amends the Education Act of 1914 (*Review of Legislation*, 1914, p. 133). The amending Act provides for increased salaries to school teachers, and also for increased grants to Education Boards and the governing bodies of

Secondary Schools in respect of administrative expenses (see also Nos. 9 and 12).

Companies.—The Companies Amendment Act (1919, No. 31) is designed (1) to render securities given by companies upon their uncalled capital effective in the event of the winding up of the company; and (2) to exclude “private” companies from the operation of the provisions as to “reserve capital.”

Housing.—Part I. of the Housing Act (1919, No. 32) is a re-enactment, with substantial enlargement, of the Workers’ Dwellings Act, 1910. The Act provides for the erection of dwellings by the State, to be disposed of by way of sale or lease to persons whose annual income is not in excess of the limits prescribed by the Act (*i.e.* £300 in the case of an applicant with not more than two children; or £300 increased by £20 for each child in excess of two, in the case of other applicants).

It is proposed to sell houses to workers on a system of time-payment, extending over thirty years (in the case of a wooden building) or thirty-six and a half years (in the case of a building of brick or concrete). Interest on unpaid purchase-money is chargeable at the rate of 5 per cent. per annum, reducible to $4\frac{1}{2}$ per cent. for prompt payment.

The purchaser of a worker’s dwelling may, on payment of the full amount of purchase-money, obtain a certificate of title as owner, subject, however, to a permanent restriction as to disposal of the property. In no case can a worker’s dwelling be transferred from one purchaser to another without the approval of the Housing Board; if the proposed transfer is to a person not qualified to obtain a dwelling by original application, the consent of the Minister of Labour must first be obtained.

The maximum purchase-money of a dwelling (including the appurtenant land) is £775 in the case of a wooden building, and £850 in the case of a concrete or brick building.

Other provisions of the Act are as follows:

Part II. (Special Settlement for Public Servants).—This Part makes provision for affording financial assistance to societies of public servants, for the carrying out of approved schemes for the formation of “village settlements” or “garden suburbs.” The Minister of Finance is empowered to borrow £250,000 annually for the purpose of assisting societies as aforesaid, and advances by way of loan may be made to societies or to individual members of societies, to an amount not exceeding in any case 90 per cent. of the value of the security offered. Such loans bear interest at a rate not exceeding 5 per cent., and are repayable by instalments extending over a period of thirty years. Loans as aforesaid may be granted for any of the following purposes, *viz.*:

- (a) For the purchase of land, and for its subdivision into allotments;
- (b) For the formation of roads and streets, and for the provision of drainage and sanitation, lighting and heating, water-supply, and other conveniences;
- (c) For setting apart parks, recreation-grounds, reserves, and the erection of libraries, public halls, and other public buildings;
- (d) For the erection of dwellings;
- (e) For purposes incidental to the carrying out of an approved scheme.

Part III. (Loans to Employers for Workers’ Dwellings).—The Minister of Finance is empowered by this Part to borrow a sum of £250,000 annually, to be advanced to employers of labour to enable them to provide homes for their employees.

Part IV. authorises Harbour Boards to acquire land, and to erect dwellings for the use of workers permanently employed by them.

Part V. (Erection of Workers' Dwellings by other Local Authorities).—This Part is an extension of legislation passed in 1913, enabling Borough Councils and County Councils to erect and dispose of workers' dwellings. The present Act authorises such local authorities to borrow the moneys necessary for carrying out such a scheme without first taking a poll of the ratepayers on the proposal.

Part VI. extends the application of the benefits conferred by Part III. of the State Advances Act, 1913 (relating to loans to workers for building purposes). The object of the amendment is to make the Act of 1913 applicable to the same classes of persons as are qualified to take advantage of the provisions of Part I. of the present Act.

Part VII. is in amendment of the provisions of certain "war legislation" imposing restrictions on increases of rent. The Act now under review empowers a magistrate, on application being made for possession of a dwelling-house, to refuse to make an order for possession if the making of such an order "would cause undue hardship to the tenant." (See *Review of Legislation*, 1916, p. 155; also *Review of Legislation*, 1918; s. 13, War Legislation and Statute Law Amendment Act, 1918.)

Part VIII. enabled banking companies carrying on business in New Zealand to provide dwellings for officers of their staffs, notwithstanding anything to the contrary in any "Act of Parliament, Royal Charter, letters patent, deed of settlement, or memorandum of association."

Electric Power Works Loan.—The Electric Power Works Loan Act (1919, No. 33) authorises the Minister of Finance to borrow an aggregate sum of £6,830,000 for the purposes of the several electric-power works specified in the schedule.

Mining.—The Mining Amendment Act (1919, No. 35) and the Coal-mines Amendment Act (1919, No. 40) are largely of a technical nature, and relate principally to rules to be observed in the working of gold-mines and coal-mines. Provision is made in the Coal-mines Amendment Act whereby coal-mine owners may be required to provide proper housing accommodation for miners and their families. Another provision has reference to privately owned and unworked coal-bearing lands. The Minister of Mines is empowered to call upon the owners to commence and carry on coal-mining operations; in default the lands may be acquired by the Crown for State Coal-mines on payment of compensation, the maximum rate of which is subject to statutory restriction.

Government Railways.—The Government Railways Amendment Act (1919, No. 38) prescribes a new schedule of salaries and increments for the officers of the Government Railway Department. The annual salary of the General Manager is fixed at £3,000.

Land.—The Land Laws Amendment Act (1919, No. 39) makes several important amendments of the law relating to lands owned by the Crown.

For expediting the purchase of land by the Crown (mainly with a view to facilitating the repatriation of discharged soldiers), it provides for the appointment of an officer to be called the Land Purchase Controller, and for the constitution of a Board (of which the Controller is to be Chairman) called the Dominion Land Purchase Board. It is expressed to be the duty of the Dominion Land Purchase Board "to undertake, control, and carry out all negotiations for the purchase of land by the Crown under the Land for Settlements Act, 1908, and the performance

and completion of all contracts of purchase so entered into by the Crown." Provision is also made for the constitution of Local Land Purchase Boards to act in assistance of and by delegation from the Dominion Board.

Settlement of "Pumice-lands" and other Lands of Poor Quality.—S. 11 makes special provision to encourage the settlement and development of lands of poor quality. The section provides that such lands may be disposed of "under a licence to occupy," without payment of rent or other charge. The licensee is required to effect certain improvements (including the erection of a dwelling), and for that purpose the Minister of Lands may grant financial assistance by way of loan. After the expiration of ten years, and on completion of the prescribed improvements, the licensee may acquire the fee-simple without further payment. For the purposes of the section, the Minister of Finance is empowered to borrow such sum as may be required, not exceeding £1,000,000 in any year. S. 20 remedies certain defects in the law relating to the computation of compensation in respect of land acquired by the Crown pursuant to s. 65 of the Land Laws Amendment Act, 1913 (relating to the acquisition of land by way of aggregation contrary to the public welfare). The maximum compensation in such cases is the amount of the Government valuation at the date of acquisition by way of aggregation, plus 10 per cent. thereof, together with the value of improvements effected on the land since such acquisition.

Industrial and Provident Societies.—The Industrial and Provident Societies Amendment Act (1919, No. 41) adopts the provisions of s. 55 of the Industrial and Provident Societies Act, 1893 (Imperial). The object of the Act is to permit of a company registered under the Companies Act, 1908, being transformed into a society registered under the Industrial and Provident Societies Act, 1908.

Undesirable Immigrants.—Prior to the war the only restrictions on immigration into New Zealand were those contained in the Immigration Restriction Act, 1908. During the war a much greater measure of control was found necessary, and was exercised partly in exercise of the common-law authority of the Crown to do as it pleases with enemy subjects in time of war, and partly in exercise of certain supplementary powers conferred upon the Executive Government by War Regulations. Under these regulations the Attorney-General was given authority to prevent the landing in New Zealand of any person believed to be "disaffected, disloyal, or of such a character that his presence in New Zealand would be injurious to the public safety"; the Attorney-General was also empowered to expel or deport from New Zealand any person not ordinarily resident here, and believed to be disaffected, disloyal, or likely to be a source of danger to the peace, order, and good government of the Dominion. In order to preserve such measure of authority as may be necessary to deal with disloyal or disaffected persons, the Undesirable Immigrants' Exclusion Act, No. 44 (which in no way restricts or interferes with the operation of the Immigration Restriction Act, 1908), has been passed.

The following is an outline of its main provisions:

S. 3 requires declarations as to nationality, parentage, and history to be made by all persons landing in New Zealand from beyond the seas.

S. 4 establishes the important principle of public policy that Germans and Austrians are not in future to be allowed to land in New Zealand, except pursuant to a licence issued by the Attorney-General.

S. 5 confers on the Attorney-General authority to prohibit the landing in New Zealand of any person deemed by him to be disaffected or disloyal, or of such a character that his presence would be injurious to the peace, order, and good government of the Dominion.

By s. 6 the Attorney-General, acting by direction of the Governor-General in Council, may order the deportation of persons, not permanently resident in New Zealand, who are deemed to be disaffected or disloyal. Persons proposed to be deported may be arrested and detained pending an opportunity to deport them; persons so deported are prohibited from again landing in New Zealand, except with the licence of the Attorney-General. Officers of Customs and of Police have a limited authority to prohibit certain classes of persons from landing in New Zealand, pending the determination of the Attorney-General as to whether or not they should be permitted to land.

The Act is applicable within the Cook Islands in the same manner as in New Zealand proper. Offences against the Act are punishable by a fine of £100 or imprisonment for three months.

Prisons.—The Prisons Amendment Act (1919, No. 47) places the control of prisons and the general administration of the Prisons Act, 1908, under an officer of the Public Service, to be known as the Controller-General of Prisons.

Police Force.—The Police Force Amendment Act (1919, No. 48) makes provision of a permanent nature for the appointment of temporary members of the Police Force. This provision is in lieu of the temporary provision made by the War Legislation Act, 1916 (*Review of Legislation*, 1916, p. 157). The Act also makes provision for the reappointment of members who resigned from the Police Force to undertake military service during the war, and protects their "Superannuation" rights as if they had obtained leave of absence.

Discharged Soldiers' Settlement and Repatriation.—The Discharged Soldiers' Settlement Amendment Act (1919, No. 49) is in amendment and extension of the Discharged Soldiers' Settlement Act, 1915 (*Review of Legislation*, 1915, p. 109), and the Repatriation Act, 1918. It provides, *inter alia*, as follows:

(1) S. 2 enables the Governor-General by Proclamation to resume possession, on payment of compensation, of land held under lease from the Crown, for the purpose of disposing of the same to discharged soldiers.

(2) S. 4 provides that where financial assistance under the principal Act or its amendments has been granted to a discharged soldier who has subsequently died, such assistance (including further such assistance if necessary) may be continued in favour of his successor, being his widow or his father or mother.

(3) By s. 8 the benefits of the principal Act and the Repatriation Act, 1918, are conferred on members of the New Zealand Army Nursing Service, as if they were members of the New Zealand Expeditionary Force.

(4) S. 9 provides that men who, having entered a camp of military training for service abroad, were afterwards discharged through no fault of their own without having seen such service, shall be eligible to receive certain of the benefits provided for by the principal Act and its amendments for discharged soldiers.

(5) S. 11 provides for the appointment of officers of the Public Service to be known as Supervisors of Soldiers' Settlements.

(6) S. 7 confers on the widows of deceased soldiers the benefits conferred by ss. 2 and 3 of the Amendment Act of 1917 (*Review of Legislation*, 1917, p. 97).

Shearers' Accommodation.—The Shearers' Accommodation Act (1919, No. 50) prescribes the details of the accommodation that employers are required to provide for shearers whom they may employ. The Act is under the administration of the Minister of Labour, and specifies certain requirements as to sleeping-quarters, dining-quarters, supply of water for drinking and washing, heating, ventilation, and sanitation. The employer is also required to provide, in connection with his shearing-shed, a suitable and sufficient outfit of first-aid appliances.

Electoral.—Parts I. and II. of the Expeditionary Forces Voting and Electoral Rights Amendment Act (1919, No. 51) relate exclusively to the electoral rights of members of the Expeditionary Force. Part III. is of general application and is in amendment of the Legislature Act, 1908.

Part I. declares the electoral rights of members of the Expeditionary Force; and makes provision for the recording of their votes at the then next general election,¹ notwithstanding that they may not have been registered as electors. Members of the Expeditionary Force are not disfranchised by reason only that they may be minors.

Part II. makes provision for taking the votes of members of the Expeditionary Force out of New Zealand for purposes of the licensing poll held simultaneously with the general election of members of Parliament.¹ It was not considered practicable to make corresponding provision for allowing absent members of the Expeditionary Force to vote for the election of Members of Parliament.

Part III. makes special provision for the enrolment as electors of persons (not being members of the Expeditionary Force) who have been absent from New Zealand on "war" service. It also defines certain classes of persons who, on making a declaration that they are qualified to be enrolled as electors, may be permitted to vote notwithstanding that they may not be duly enrolled. The provision is in lieu of s. 18 of the Legislature Amendment Act, 1914 (*Review of Legislation*, 1914, p. 122).

Finance.—The Finance Act (1919, No. 52) is divided into parts as follows:

Part I. Public Revenues Amendment; Part II. Loans for Public Works and other Purposes; Part III. Pensions; Part IV. General.

Part I. increases from £800,000 to £2,000,000 the amount that may be invested by the Government in "Reserve Fund Securities."

Part II. authorises the Minister of Finance to borrow the sum of £900,000 for the erection of public buildings and other public works.

Part III. increases the rates of pension payable to miners in respect of miner's phthisis; also the rates of pensions to widows with dependent children.

The War Pensions Act, 1915, is made applicable to persons in receipt of pensions under the Defence Act, 1909, in respect of military service in the South African (Boer) War.

Provision is also made for the payment of pensions (calculated on the scale of pensions under the War Pensions Act, 1915) to members of the Police Force who may receive injury in the course of their official duties,

¹ December 17, 1919.

and to the dependents of such members who are so injured or who may lose their lives in the course of their duties.

Part IV.—S. 15 empowers local authorities, with the approval of the Governor-General in Council, to erect war memorials and to borrow money for the purpose as for a public work.

S. 16 validates and authorises certain payments made to discharged soldiers during periods of unemployment.

S. 17 defines the authority of the Repatriation Board under the Repatriation Act, 1918, to grant loans to discharged soldiers in exercise of its authority and duty "to make provision for the restoration of discharged soldiers to civil life."

S. 18 enables the Governor-General, by Order in Council, to modify or suspend the provisions of industrial awards and agreements, and of certain legislative enactments, for purposes incidental to the repatriation of discharged soldiers and their restoration to civil life. The provision is in lieu of more extensive legislation passed in 1914 and now repealed (*Review of Legislation*, 1914, p. 121).

S. 19 provides for a surtax not exceeding 50 per cent. *ad valorem* on goods imported into New Zealand from countries with which His Majesty has been recently at war (see *Review of Legislation*, 1915, p. 94).

S. 20 prohibits local authorities (notwithstanding any Act or other authority to the contrary) from borrowing moneys without first having obtained the consent of the Governor-General in Council.

Divorce.—The Divorce and Matrimonial Causes Amendment Act (1919, No. 53) applies to New Zealand the provisions of the Matrimonial Causes (Dominion Troops) Act, 1919 (Imperial), thus conferring jurisdiction on competent Courts of the United Kingdom in respect of matrimonial causes affecting New Zealand soldiers. The Act also makes certain provisions affecting the matrimonial rights of British women married to persons of enemy origin. The commencement of these last-mentioned provisions has, however, been postponed in the meantime. If and when the provisions in question become operative, a British woman will be entitled to claim a divorce from her husband, being a person of enemy origin, if "her husband has at any time since the fourth day of August nineteen hundred and fourteen left New Zealand and has remained continuously absent from New Zealand for more than twelve months." The Act also provides that when a British woman is married to a person of enemy origin (whether before or after the passing of the present Act) she shall be the guardian of the children, any law to the contrary notwithstanding.

10. FIJI.

[Contributed by HIS HONOUR A. K. YOUNG, K.C.]

During the year twenty-three Ordinances were passed.

Marriage.—No. 1 amends s. 42 of the Marriage Ordinance, 1918, so as to render legal and valid a marriage between Indians by Indian priests registered as marriage officers under the Ordinance, provided that such marriage is in accord with the personal law of the parties and subject otherwise to the provisions of the Ordinance.

Trocas Shell.—No. 2 prohibits the gathering or exporting of immature Trocas shell (locally known as Sici shell). The prohibition extends to shell less than two and a half inches in diameter.

Food-stuffs.—No. 5 prohibits the use of food-stuffs for any purpose other than that of human consumption. The necessity for this legislation arose owing to a shortage of food in the Colony, due partly to the influenza epidemic in Australia and New Zealand, and partly to strikes in the former country. On inquiry locally it transpired that rice, the staple food of the Indians in the Colony, was largely used by them and others to feed horses.

Post Office.—No. 7 renders valid a revision of all Post Office rules and regulations made since 1877. The Regulations are set out in full in the Schedule to the Ordinance.

Native Lands.—No. 8 empowers the Native Lands Commission, with the consent of the native owners, to allot land to “dependents” and their legitimate issue; that is to say, to native Fijians who, being separated from the tribes to which they belonged by descent, have by native custom lost their rights in their tribal lands and are living in a state of dependence with other tribes. Any land so allotted reverts to the native owners on cessation of occupation. The Ordinance also makes provision for the forfeiture of rights of ownership by any member of any land-owning communal division by absence without good cause for over two years. Under the Ordinance lands may also be allotted by native owners for the use and support of their illegitimate issue, but the ownership of such lands remains vested in the native owners, and the Mataqali is deemed to be extinct on the death of all its legitimately born members; whereupon the land falls to the Crown, the interests of any surviving illegitimate issue being fully recognised.

Merchant Shipping.—No. 9 amends the Marine Board Ordinance, 1899, so as to bring it into line with s. 92 of the Merchant Shipping Act, 1894, as amended by s. 56 of the Merchant Shipping Act, 1906, and permits a foreign-going vessel of less than one hundred tons register to go to sea with a master duly certificated, but without a mate duly certificated. The Ordinance also permits vessels of one hundred tons or less to trade in the inter-insular service with a certificated master only.

Noogoora Burr.—No. 10 provides for the destruction and eradication from the Colony of this noxious shrub (*Xanthium strumarium*). Its importation, possession, and distribution are made offences under the Ordinance, and stringent provisions are provided to prevent importation. The duty of destroying the shrub is primarily thrown on the occupier of the land. If the occupier fails, the work may be performed by an Inspector under the Ordinance; the expense incurred being made a first charge on the land. Provision is made so as to enable a lessee in certain cases to recover from the owner of the land some part of the expenses incurred by him in complying with the requirements of the Ordinance.

Former Enemy Aliens.—No. 11 prohibits the landing in the Colony of a “former enemy alien” as defined in the Ordinance, unless permitted to do so; and provides for the deportation of a former enemy alien who has contravened the provisions of the Ordinance.

Denaturalisation.—No. 13 follows the provisions of ss. 7 and 7a of the British Nationality and Status of Aliens Act, 1914 (Imperial), as amended by the 1918 Act. The Ordinance also prohibits with certain reservations the nationalisation of “former enemy aliens” for a period of ten years after the termination of the war with Germany and her allies (cf. s. 3 [2] of the Imperial Act).

Early Closing.—No. 15 regulates the closing of places of business in respect of which a joint wholesale and retail licence has been issued.

Education.—No. 16 extends the granting of scholarships and assistance to promote education.

Dogs.—No. 17 provides for the destruction of unregistered dogs.

Loan.—No. 18 authorises on settled lines the raising of £250,000 for reclamation at Suva of foreshore and Harbour Works and Sanitary Works.

Shipping.—No. 20 deals with shipping from a public health point of view, and subjects ships lying in port to inspection by the Medical Officer of Health or a Sanitary Inspector.

Electricity.—No. 21 authorises on settled lines the Municipal Council of Suva to establish electric lines and works in the town of Suva and its environs, for the purpose of the electric lighting of the town.

Indian Immigration.¹—No. 22 authorises the cancellation of all existing contracts of indenture entered into under the Indian Immigration Ordinance, 1891, and provides for the payment of compensation to the employer at the rate of three pounds fifteen shillings in respect of each year of the unexpired term of indenture of each Indian whose contract of indenture has been cancelled under the Ordinance.

Deportation.—No. 23 provides for the deportation from the Colony by the Governor of former enemy aliens in certain cases, either summarily or after formal inquiry.

II. BRITISH SOLOMON ISLANDS PROTECTORATE.

[Contributed by HIS HONOUR A. K. YOUNG, K.C.]

During the year 1919 eight laws, styled King's Regulations, were passed, of which the following are the principal:

Land Registration.—No. 2 amends the Principal Regulation of 1918, in so far as it relates to the Record Books required to be kept and the proof of Wills and other instruments.

Interpretation.—No. 3 follows the lines of the Interpretation Regulation, 1889 (Imperial), defining terms and expressions when used in Ordinances, Regulations or Rules, etc.

Former Enemy Aliens.—No. 5 prohibits the landing in the Protectorate of a former enemy alien, as defined in the Regulation, unless permitted to do so; and provides for the deportation of a former enemy alien who has contravened the provisions of the Regulation. Certain liabilities are imposed on Masters of Vessels in respect of former enemy aliens.

Denaturalisation.—No. 7 follows the provisions of ss. 7 and 7a of the British Nationality and Status of Aliens Act, 1914 (Imperial), as amended by the 1918 Act. The Regulation also prohibits, with certain reservation, the naturalisation of "former enemy aliens" for a period of ten years after the termination of the Great War with Germany and her Allies (vide s. 3 [2] of the Imperial Act).

Deportation.—No. 8 provides for the deportation of former enemy aliens in certain cases. Regulations similar to Nos. 7 and 8 were made by the High Commissioner under the Pacific Order in Council, 1893, for the Kingdom of Tonga, a protected State in the Pacific Ocean.

¹ All existing contracts were cancelled on January 2, 1920.

IV. SOUTH AFRICA.

I. UNION OF SOUTH AFRICA.

[Contributed by E. L. MATTHEWS, ESQ., K.C., C.M.G.]

Acts passed—49.

Two sessions of the Union Parliament were held in 1919: the ordinary session which lasted, without any recess whatever, from January 17 till June 21; and a special session summoned in September to consider the Peace Treaty and ratify it. This session lasted little more than a week; in that time the Peace Treaty was ratified by Resolution and a short Act was passed enabling the Government to give effect, so far as concerns the Union, to any of the provisions of the Treaty, or to any Mandate issued in pursuance of the Treaty, relating to the territory sometime known as German South-West Africa, and now known as the South-West Protectorate. It will be convenient at once to dispose of this Act. Its terms are very general; it enables the Governor-General in Council to make such appointments, establish such offices, issue such proclamations and regulations, and do such things as appear necessary to give effect to the matter just referred to. The Governor-General in Council is further specifically empowered at any time by proclamation to repeal, amend, alter, or modify any laws in force in the territory of South-West Africa; to make new laws therefor, and to delegate his authority to any such officer in the territory as he may designate to act under his instructions. Any such proclamation or regulation must be laid before Parliament as soon as possible. The Land Settlement Acts in force in the Union or in various specified parts thereof are mentioned as being laws which the Union Government may, with such modifications as are necessary to suit local conditions, put in force in the territory. Certain restrictions are, however, imposed. No grant of any right or title to minerals, and no trading or other concessions in the territory, may be granted without the authority of the Union Parliament. Further, no land now or hereafter set apart as a reserve for natives or coloured persons in the territory may be alienated, except under the same authority. The Act is expressed to be of a temporary nature only, and ceases to have effect on July 1, 1920. By that date it is hoped that the Mandate will have been issued by the League of Nations. The date of operation of the Act may, however, be extended by Resolutions of both Houses of Parliament. So far as it relates to the territory, the Act is inoperative until the Mandate from the League of Nations is issued.

It is proposed now to review the legislative work of the ordinary session, and, as on previous occasions, to consider it under appropriate headings.

Consolidating and Administrative Legislation.—Very little consolidating work remains to be done. Two measures—the Inquests Act (No. 12 of 1919) and the Public Health Act (No. 36 of 1919)—continue the policy pursued in previous sessions, of unifying the pre-Union laws which have remained in force in the areas for which they were enacted. The Miners' Phthisis Act (No. 40 of 1919) is a consolidation, with important amendments, of Acts of the Union Parliament.

The Inquests Act.—The system under which in the late Colonies—now Provinces of the Union—an inquiry has been held into the cause

of death of any person who has died from violence, or from other than natural causes, is one derived from England, though the office of Coroner is unknown in South Africa, and the magistrate who holds the inquiry has never been assisted by a jury. As early as 1848 field cornets in the Cape Colony were charged with certain duties in respect of such matters, but it was not until 1875 that the first Inquest Act was passed. This Act imposed upon the magistrate of any district the duty of holding an inquiry into the cause of death of any person whose dead body was found within six miles of the seat of magistracy, if the person had died suddenly or was suspected of having come by his death from violence or otherwise than in a natural way. The magistrate had to have the body disinterred, if it had already been interred, to inspect it, and to note all appearances, marks, and traces upon it, to have it examined by a medical practitioner, so that the cause of death might be discovered, and the person (if anyone) who was the cause. If the magistrate came to the conclusion that a crime had been committed, it was his duty to cause the suspected offender to be arrested in order that a preparatory examination with a view to criminal proceedings might be taken. In every case he had to send a copy of the depositions and his findings to the Attorney-General. He was endowed for the purpose of the inquiry with all necessary powers of subpoenaing and compelling the attendance of witnesses and putting them on oath. Where, however, a dead body was, in similar circumstances, found *outside* a radius of six miles from the seat of magistracy, it was the duty of the field cornet to hold an inspection and informal inquiry and report the particulars to the magistrate, who might hold an inquest if he thought it necessary. A field cornet was further charged with the duty of reporting to the magistrate every case where to his knowledge a dead body had been found within the six-mile radius.

In Natal no law specifically dealing with inquests had ever been in force; but in 1897 an Act was passed enabling any town council to appoint an officer called "the Borough Coroner" to whom cases of sudden death or death attended by suspicious circumstances were to be reported. This officer might direct *post-mortem* examinations to be made, compel witnesses to attend and give evidence at his inquiries, and give burial certificates. It was his duty to send the depositions he might take to the Attorney-General. This Act, however, was a dead letter. No borough ever appointed a coroner. But from 1845 onwards, under the old Criminal Procedure Law, it was possible to hold a preparatory examination as to any supposed crime even though no accused person was present.

As regards the Transvaal and Orange Free State the position has been as follows:

Immediately after the annexation of the two Republics and before the South African War had come to an end, Proclamations were issued which were in terms almost verbatim enactments of the Cape Inquests Act, 1875. In the Transvaal the Proclamation remained in force till 1909; in the Free State it remained in force until the Act, the subject of this review, came into operation. The Transvaal in 1909 adopted a somewhat similar procedure of throwing the duty of making inquiry in the first instance on the police; a public inquiry was held only if the Attorney-General specially directed one to be held. Further, inquiries into fatal accidents in the mines were, under it, to be held by

mine inspectors, and such inquiries were regarded as sufficient unless the Attorney-General otherwise directed. This provision, however, gave rise to dissatisfaction amongst mine workers, who perhaps not unnaturally desired that all such inquiries should be held by some official unconnected with the mine. At the time of the industrial disturbances in 1913 a promise was made that this grievance should be remedied.

The new Act, which it has been impossible to bring forward at an earlier date owing to war conditions and the pressure of other urgent parliamentary business, adopts for the whole Union the general principles of the Cape Act, but with certain modifications.

For example, in eight of the large urban districts of the Union (which are scheduled to the Act) there will always be a magisterial inquest. In non-scheduled districts an inquest will only of necessity be held when the death occurs or a body is found within a radius of ten miles from the seat of magistracy: when the event happens outside that radius of ten miles a justice of the peace will, on the magistrate's request, hold a more informal inquiry and report to the magistrate, and, as under the Cape Act, the magistrate will undertake a more formal inquest only if he in the circumstances considers one necessary or desirable.

A further modification is that discretion is given to the magistrate as to disinterment or as to a medical examination of the body. As regards fatal accidents on mines a compromise was arrived at whereby the Act, while recognizing the duty of the mine inspector to hold his inquiry, renders it possible to combine that inquiry with the magisterial inquest, the magistrate being made the president of the joint inquiry. There may be a joint report or each may make a separate report. The magistrate's report will always be sent to the Attorney-General. The work of magistrates holding inquiries in the Witwatersrand area is necessarily so great that provision has been made for the appointment of one magistrate with both legal and medical qualifications to do the inquest work in all four magisterial districts included in that area and to give his whole time to that work. The difficulty as to mine accidents is reproduced in a lesser degree in regard to railway accidents. Here, again, it was obviously undesirable to duplicate inquiries, though under the Railway Management Act, 1916, public inquiries are directed into all serious railway accidents. The new Act, therefore, provides for the magistrate holding his inquest associating himself with the officer holding the railway inquiry accident and for a joint or separate report as in the case of mine accidents.

The Public Health Act (No. 36 of 1919). Since the establishment of Union very little control by the Central Government over matters relating to public health has been possible. That is partly due to the terms of the pre-Union Acts which still remained in force, and is partly due to the fact that municipal and other local authorities have, under the special or local laws which govern them, possessed very wide powers in regard to sanitary affairs in their own areas. Further, under the Act of Union, "municipal institutions and like bodies" are stated to be matters as to which each Provincial Council is competent to enact Ordinances, the Executive Committee of each Province being, correspondingly, the authority to which local authorities are directly responsible. Nevertheless the Union Department of the Interior, which was the successor to the Colonial Secretary's Offices of the late Colonies, has been the centre of such public health activities as have been possible

for the Union Government to undertake. That department was faced with considerable difficulties in co-ordinating these activities. The susceptibilities of the provincial authorities and of the large and influential municipal authorities had at every step to be considered. More than once in the early days of Union attempts at some measure of co-ordination were made, but opposition from one quarter or another was too strong. All that was possible was the appointment of a Medical Officer of Health of the Union, to advise the Minister of the Interior on public health matters. That officer had, however, no statutory powers, and, owing to the terms of the pre-Union Acts, the Minister had but few of such powers. A consolidating and unifying Bill was, however, drafted at the end of 1915, and submitted to the provincial and local authorities and other specially interested parties for comment.

It was not, however, till the middle of 1918 that a revised draft assumed anything like the form in which it was eventually introduced into Parliament during the 1919 session. During September 1918 a conference of provincial and local authorities met at Bloemfontein under the chairmanship of the Minister of the Interior to consider in detail this revised draft. At that conference a *modus vivendi* was reached. Within three weeks after the conference broke up, the Spanish influenza epidemic reached South Africa, spread through urban and remote rural districts in a very virulent form, and was responsible for a heavy death-roll amongst all classes and races. This event did possibly more than any other thing could have done to remove the difficulties indicated, and to remove also serious opposition to investing the central authority with wide powers in public health matters. It certainly assured the passage of a consolidating and unifying Bill in some form. And yet it can hardly be said that the absence of central control or of such a measure caused much real difficulty in fighting and suppressing the epidemic. But the epidemic probably not only concentrated public attention on the necessity for central control and a radical measure, but it induced such a spirit of compromise both in and out of Parliament as would hardly have come into existence but for the remembrance of what the public suffered in the epidemic. The peculiarly virulent form which the epidemic took and its rapid spread over long distances and into remote localities were, rightly or wrongly, ascribed to housing and general sanitary conditions. The measure drafted for consideration at Bloemfontein found its way on to the Statute-book with comparatively few and unimportant alterations after consideration by a select committee which heard a large number of witnesses.

1. One of the main principles of the Act is complete central control of all public health matters under the newly created Minister and Department of Public Health. The nucleus of the new department was found in those officers of the Department of the Interior whose duties hitherto have consisted in attention to public health matters. Further, under the Act a Council of Public Health has been established consisting of the Minister (as chairman), the Chief Health Officer, and seven persons (not being officers in the public service) appointed by the Government. Four of these persons must be medical practitioners, and of those four medical practitioners two must be selected on account of special knowledge or practical experience in matters relating to public health or medical research. Three of the seven are *not* to be medical practitioners. The function of the Council is to advise the Minister and the department.

The functions of the department are expressed to be : to guard against the introduction of infectious disease into the Union from outside ; to promote the public health and the prevention, limitation, or suppression in the Union of infectious, communicable, or preventable diseases ; to advise and assist provincial administrations and local authorities in regard to matters affecting the public health ; to promote or carry on researches and investigations in relation to the prevention or treatment of human diseases ; to prepare and publish reports and statistical and other information relating to the public health ; and to obtain and publish periodically such information regarding infectious diseases and other health matters in the Union and such procurable information regarding epidemic diseases in territories adjacent to the Union, or in other countries, as the interests of the public health may require.

A Chief Health Officer is under the Act to be appointed together with so many assistant health officers, pathologists, medical inspectors, port health officers, and other officers as may be necessary. Every such health officer must be a medical practitioner, and in the case of the Chief Health Officer and the Assistant Health Officers must also possess a degree, diploma, or certificate in public health or state medicine. The Chief Health Officer is at present also carrying out the duties of permanent head of the new department—as Secretary for Public Health.

2. The existing local authorities are utilised by the Act to carry out its local administration. In addition, where there is no rural local authority, the Government may either appoint the Provincial Administrator to be such and give him wide powers by regulation, including the powers of levying rates and imposing fees for services rendered, or the local magistrate, acting on the Minister's instructions, will be the local authority with like powers.

3. Another main principle of the Act is that the Administrator of each province is endowed with wide powers of forcing defaulting local authorities to carry out their statutory duties under the Act. If any local authority is in such default, the Administrator may exercise all its powers under the Act and recover from it the expenditure which he has incurred in so acting. But the Administrator can only take this action upon the report of the Central Government's Chief Health Officer. The existing control of the provincial authority over municipal councils and like bodies is thus safeguarded, while at the same time that control, so far as it relates to public health matters, is linked up with a general supervision of the Union Public Health Department.

4. Local authorities *must* appoint local medical officers of health and certified sanitary officers if required by the Minister of Public Health, and, apart from the possibility of being so required, they are encouraged to appoint whole-time men by means of a provision under which a refund will be made by the Central Government of a considerable proportion of the salaries of such officers, not exceeding £750 in any one year in respect of each such officer.

The position of every such officer is safeguarded against the possible local result of the honest performance by him of his duties, for he cannot be dismissed nor can his emoluments be reduced except with the Minister's sanction ; but the local authority may suspend such an officer from the duties and emoluments of office on the ground of gross incapacity, neglect, or misconduct, pending the sanction of the Minister as to dismissal.

5. Infectious disease is dealt with by the usual provisions as to notification and as to control of persons and articles infected or suspected of having been in contact with infection. The Minister is given very wide powers to make regulations for preventing the spread of infectious disease, but, except in the case of formidable epidemic disease, his powers to make such regulations cannot be exercised within the larger municipalities until the municipal council concerned is in default in itself making satisfactory regulations; and even in the case of other municipalities, the local authority must first be consulted before the regulations are made. But in the case of formidable epidemic diseases, such as smallpox, plague, cholera, typhus, and certain diseases which the Government may specially proclaim, the regulations are solely matters for the Minister. Each local authority must pay the initial cost of dealing with such diseases within its boundaries, but will obtain from the Central Government a refund of two-thirds of the expenditure which it may have actually and necessarily incurred in combating such a disease. In the case of other infectious diseases, the local authority obtains no such refund.

6. A special chapter is devoted to the scourge of tuberculosis. This disease, when clinically recognisable apart from the reaction to the tuberculin test, is declared to be a notifiable infectious disease. Encouragement is given to local authorities to take the necessary measures for dealing with it by enabling them to obtain a refund from the Central Government of one-half of the cost which they may have actually and necessarily incurred in maintaining and managing institutions for the treatment of persons suffering from this disease. On the other hand, the Provincial Administrator may be required by the Minister to make provision for such treatment in chronic sick or general hospitals, the special accommodation thus provided being refunded to the Provincial Revenue Fund from Central Governmental revenue. Under the South Africa Act, 1909, "Hospitals" are among the matters the control of which is specially assigned to the provincial administrations and provincial councils.

7. A special chapter is also devoted to venereal diseases. Under its provisions a duty is thrown upon every person who knows that he is suffering from a venereal disease to consult and place himself under the treatment of a medical practitioner. Certain corresponding duties are thrown upon medical practitioners, parents, guardians, and upon employers of persons who handle food. The chapter also provides for a compulsory medical examination, upon the Minister's orders, of all residents in any locality where venereal disease is believed to be prevalent; also for a compulsory detention upon a magistrate's order, and for treatment in a hospital or place of special accommodation, of any person found to be suffering from such disease. The inquiries and proceedings before the magistrate are to be held *in camera*, and all records in connection therewith are, under severe penalties, to be kept secret. The Central Government will contribute very largely to the *free* treatment, isolation, and accommodation for which the Act provides of persons suffering from venereal disease, and will further refund to any local authority two-thirds of the costs of any approved scheme which such authority may institute in relation to such treatment, maintenance, and accommodation. The Provincial Administrator is charged with similar duties under this chapter as those described above in relation to tuberculosis.

8. A chapter is also devoted to port health matters such as the quarantining of ships and examinations against infectious disease at inland border stations.

9. Chapter VI. of the Act deals with vaccination against smallpox. It provides for compulsory vaccination of every child within thirteen months of its birth, except in cases of approved insusceptibility to or unfitness for vaccination, or in any case where the child has already suffered from smallpox. Similar provisions are enacted with regard to unvaccinated adults. In times of emergency local authorities are empowered to require a general vaccination of the public or of any section thereof. Officers of Government institutions and members of the public service and of the railways and harbour service are required to be vaccinated (with the exceptions indicated above) as a condition of retaining their appointments. Very strict provisions are contained in the Act for preventing arm-to-arm vaccination and for ensuring a supply from the department of pure and tested calf-lymph.

10. The remaining provisions of the Act are framed so as to impose on local authorities duties as to providing pure water supplies; also so as to ensure that only sound meat and milk free from tubercular taint and free from infection shall be supplied by vendors to the public. Other chapters deal in the usual way with such matters as the suppression of nuisances, proper housing accommodation, and the prevention of overcrowding.

The Act does not apply to property owned or occupied by Imperial Government for naval or military purposes. As regards property owned or occupied by the Union Government for any public purpose or service whatever except official residences, local authorities will have no powers or duties, but the Minister will exercise the powers which the local authority might otherwise have possessed. The head of the department which occupies such property is treated as the owner or occupier and liable to duties as such.

The Miners' Phthisis Act (No. 40 of 1919) consolidates a series of Union Acts which have been on the Statute-book since 1911. When the Bill was first introduced the intention was to introduce trifling amendments on points of detail. The hands of the Government were, however, forced by members of all parties representing constituencies on the Witwatersrand Gold Fields (where, of course, the Act is mainly operative) to modify radically the "benefit" provisions of the Bill; and to modify it in the direction of a very generous amplification of benefits at the expense of the mining companies.

The new features of the Act are as follows:

(a) The expenses in connection with the administration of the compensation and other funds (including the salaries and remuneration of members and officials of the Board which administers the funds) are entirely charged upon the public revenues of the Union. Under the previous Act, one-half only of those expenses was so charged.

(b) The Board is endowed with further powers in respect of the training of beneficiaries under the Act, in trades and industries; in respect of establishing them on land settlements or in industrial occupations; and in giving them financial assistance while they are being so established.

(c) The European miner will no longer contribute to the fund from which he draws his benefits. The Board levies contributions from each

employing mining company as before, but that employer is no longer empowered to recover one-third of the contributions by deductions from the wages of the miner. The abolition of the miner's contribution necessitated the discovery of a new basis upon which the employers should contribute to the Compensation Fund. This is set out in s. 10 (2) of the Act, under which the moneys which it is estimated will be necessary to meet claims on the fund will be assessed against each employer as follows :

Forty-five per cent. in proportion to the miner's earnings during the previous three months ; 35 per cent. in proportion to the incidence of miners' phthisis on the employer's mine during the previous five years, and 20 per cent. in proportion to the mine owner's profits as ascertained from income-tax returns.

(d) The awards to sufferers from the disease as well as the awards to dependents of those miners who have died of the disease are, as indicated above, very considerably increased. In 1912 the law had recognised two stages in the disease which have been designated as primary and secondary stages ; the law provided benefits at a different rate in respect of each stage. Since 1916 benefits were as from August 1, 1918, to be paid at a uniform rate ; that date was in 1918 postponed till August 1, 1919. The disease being of a progressive character, difficulty has always been experienced in determining where the primary stage and the secondary stage begin. That difficulty must always exist, but the new consolidating Act introduces a still further stage, which for want of a better term has been rather illogically described as " the *ante-primary* stage." It is a condition which is determined when the medical bureau, appointed under the Act, finds physical signs of damage to the lungs, short of definite physical signs of miners' phthisis, and finds also that such damage has supervened during and in consequence of underground employment on a mine. The primary stage is when the bureau finds that definite and physical signs of miners' phthisis are or have been present, and that capacity for work is thereby impaired though not seriously and permanently. The secondary stage is when the Bureau finds the existence of those definite and physical signs of miners' phthisis and that capacity for work is thereby serious and permanently impaired. These stages become important when the amount of a compensation award has to be determined. To a miner in the ante-primary stage, payments, calculated according to the earnings, are made in a lump sum. If he earns less than £29-odd per month, he will obtain twelve times the amount of his monthly earnings. If he earns more than £29 per month, but has less than £37 10s., he will in addition obtain six times the excess amount. If his monthly earnings are more than £37 10s., he will as a further addition obtain three times the further excess amount. These rates obviously compare very favourably with the amounts which a miner would have obtained under the Workmen's Compensation Acts if miners' phthisis had been an industrial disease under those Acts. It is not. If the miner's disease has reached the primary stage, he will obtain an addition of 50 per cent. to the above amounts, either in a lump sum or in instalments as he may determine ; if he takes the amount in instalments, interest at $4\frac{1}{2}$ per cent. will be added to the amount credited to him from time to time. If the miner's disease has reached the secondary stage, a stage where he can no longer work, he will obtain a monthly allowance *for life*, based also on his last monthly earnings

while in work, but if he leaves South Africa the monthly allowance will, except in special circumstances, cease when he has drawn in the aggregate £750. If a miner, on a periodical medical examination, is found to be suffering from tuberculosis complicated with miners' phthisis, he also will obtain this monthly allowance.

The dependents of miners who die of the disease are compensated under the new Act, on equally generous terms, the amounts varying according to whether the miner left a widow or child, and according to whether he has already before his death been compensated under the Act. Miners who have already been compensated under previous Acts and who are still resident in South Africa will have their awards made up to those which they would have obtained under the new Act; likewise the dependents of those miners who have been compensated under previous Acts.

(e) The new Act places native labourers on the mines, as regards compensation, in the same position as European miners. Hitherto such native labourers and their dependents have been compensated on the basis of, and by reference to, a clause in the Native Labourer's Regulation Act, 1911, as if they had been injured or killed by accident arising out of and in the course of employment, that is to say, they have received fixed sum payments. Now the native labourer, and his dependents in the case of his death, will be compensated in respect of miners' phthisis on the basis of his earnings. The coloured mine worker (*i.e.* the half-caste) will be treated as if he were a European miner. Hitherto he has had the option of being so treated by contributing to the fund, or, if he did not exercise that option, he was treated for compensation purposes as a native labourer.

(f) The general administrative provisions of the new Act in relation to the constitution and powers of the Board and of the medical bureau, the methods of claiming and substantiating claims to awards, and the provisions for preventing diseased men from working underground by a system of periodical medical examinations and certificates, are substantially the same as under the repealed Act of 1916.

Undoubtedly the Act has placed a very heavy burden on the mining industry, but it is a burden that that industry is at present able to bear by the fortunate or fortuitous but contemporaneous rise in the market price of gold.

Economic and Industrial Legislation.—It will now be convenient to consider, among the legislation passed in the session of 1919, some Acts based on economical and industrial consideration. These include The Transvaal Asiatics (Land and Trading) Amendment Act, The Diamond-cutting Act, The Pretoria Mint Act, and The Public Welfare and Moratorium Extension and Further Amendment Act.

The Transvaal Asiatics (Land and Trading) Act (No. 37 of 1919) contains two clauses: one affording partial relief to British Indians from certain disabilities, the other tightening up the land law so as to prevent evasions of it by Asiatics generally. The Act had its origin in a petition presented to Parliament on behalf of certain British Indians alleging certain disabilities from which they suffered on the Witwatersrand Gold Fields by the operation of the Transvaal Gold Law. In referring this matter for inquiry by a select committee, Parliament coupled with it an inquiry as to the alleged evasion by Asiatics of a law of 1885 under which Asiatics were, and are still, prohibited from being owners of land and

immovable property. It is necessary to consider each of these matters separately. The Transvaal Gold Law of 1908 (Act No. 35 of 1908) provides that no right under that law may be acquired by a coloured person (in which term, by the definition clause, an Asiatic is included), and no holder of a right under that law (*e.g.* a claim licence holder or stand licence holder) may permit any coloured person except his *bona fide* servant to reside on or occupy ground held under such a right. Under another clause no coloured person is permitted to reside on proclaimed land in the mining districts of Johannesburg, Boksburg, and Krugersdorp (that is to say, on any part of the Witwatersrand Gold Fields), except in bazaars, locations, and mining compounds and such other places as the mining commissioner may appoint. Existing rights of occupation of ground were, however, safeguarded. After the Indian riots in Natal in 1913 an Act was passed (called the Indian Relief Act, 1914) upon the recommendation of a judicial commission appointed to inquire into Indian grievances; but only some of the commission's recommendations were embodied in the Act; others were the subject of an agreement or understanding entered into between General Smuts and Mr. Gandhi, the then leader of the Indian community. This agreement may be summarised as follows:

Vested rights acquired by Indians were to be respected, such vested rights being the rights of an Indian and his successors in title to live and trade and to shift his residence or business from place to place in the same township. Some of these townships were upon proclaimed land, and thus fell within the restrictive provisions of the Gold Law referred to above; others, though not on proclaimed land, were, owing to the provisions of the townships law, subject to restrictions in regard to the residence therein of coloured persons, similar to those contained in the Gold Law in respect of proclaimed land. Subsequent to the Smuts-Gandhi agreement, several Indians opened shops and carried on businesses in townships in which in 1914 they had not been licensed to trade. Later on there took place an influx of Indians into several townships on the Witwatersrand. That this was so is shown by the following facts. New general dealers' licences issued by the Government revenue authorities to Indians since July 1, 1914, amount to 71 in five years. New trading licences in Johannesburg issued by the Municipal Council to Indians since that date amounted in that period to 684, and in Krugersdorp to 18. Where new businesses were opened up by Indians applications for licences were made to the proper authorities, and of course obtained. The Government revenue authorities have no discretion to refuse to issue a general dealer's licence to anyone who tenders payment of the necessary moneys. A municipal council, on the other hand, may under a Provincial Ordinance refuse the issue of certain trading licences, the issue of which is in its hands, if in the council's opinion the applicant is not a desirable person to hold a licence. An appeal lies from the council's decision to the magistrate, whose decision is final. Now a considerable number of such appeals was made by Indians whose licences had been refused by the municipal councils on the ground of undesirability; and many of those appeals were successfully made. The Indians alleged that certain municipal councils had consistently refused applications by Indians solely on the grounds that the applicants were Indians. One municipal council was successful in obtaining from the Supreme Court an interdict restraining a certain European trading

firm from permitting the residence of Indians and coloured persons on certain stands and in certain shops; the interdict was granted on the ground that the residence was in conflict with the Gold Law. The effect of the interdict was to close the Indian businesses on these stands. The first clause of the new Act (a) provides that the restrictive provisions of the Gold Law and Townships Laws described above shall not apply to any British Indian who on May 1, 1919, was under the authority of a licence carrying on business on proclaimed land or on a stand or lot in a township or to his lawful successor in business or to anyone in the *bona fide* employment of the Indian or his successor, so long as he continues to carry on business on the same ground, stand, or lot.

It is proposed now to deal with the second clause as to the evasion by Asiatics of the prohibitions against owning of land by Asiatics.

In the law of 1885 the term "fixed property" is used, and that term has been interpreted by the Courts as including long leasehold titles and stand-licence titles as well as freehold. But the Courts have also decided (as was to be expected) that a company or other corporate body, being a fictitious person in law, must be regarded as quite distinct from its constituent members. A company, therefore, the members of which were Asiatics or coloured persons, would not fall within the terms of the law of 1885, and could therefore acquire and hold fixed property. The Companies Law of the Transvaal is almost identical in terms with the English Companies Act, 1908. Any seven Asiatics subscribing to a memorandum of association, or, in the case of a private company, any two Asiatics so subscribing could form a company capable of acquiring and holding fixed property, and thus the provisions of the law of 1885 were evaded. In 1913 three such companies were registered; in 1914 nine; in 1915 thirty-eight; in 1916 one hundred and three; in 1917 ninety-one; in 1918 one hundred and fourteen; and twelve in the first three weeks of 1919. Three hundred and seventy of such companies have thus been registered in six and a quarter years, the aggregate nominal capital being only £479,327. Now, whether or not the provisions of the law of 1885 are sound is immaterial. It has always, until the method of evasion was discovered, been enforced by the registrars of deeds refusing registration of fixed property in the names of Asiatics; and its enforcement has had the strongest approval of the bulk of the European population, which from some instinct of self-preservation, either true or mistaken, demands even more stringent administration if not more stringent legislation.

The second clause of the new Act declares that the law of 1885 is to be construed as prohibiting ownership of fixed property by companies or corporate bodies in which one or more Asiatics have a controlling interest; and also as prohibiting the registration of mortgage bonds over fixed property in favour of any Asiatic, except as security for a *bona fide* loan or investment in the ordinary course of business. These provisions apply as from May 1, 1919.

The Diamond-cutting Act (No. 38 of 1919). The feasibility of establishing in the Union a diamond-cutting industry has been the subject of public discussion and a certain amount of controversy in the Union for many years. It even formed the subject of a lengthy inquiry and report by a select committee of the Senate in 1913. The question has always been wholly an economic one. More than 90 per cent. of the world's diamonds is, and has been for many years, produced from

mines and alluvial diggings in the Union. Nothing in the laws which have been in force in the three Provinces of the Union where diamond mines and diggings exist (the Cape, the Transvaal, and the Orange Free State) has prevented the cutting and polishing in those provinces of rough or uncut diamonds. Those laws—which are in identical terms in all three provinces, and are known as the Diamond Trade Laws—provide among other things for the issue of diamond-cutters' licences at a prescribed annual fee to approved persons under security for their observance of the laws. But to a very limited extent only has advantage been taken of these provisions, and only persons who carried on diamond cutting in a very small way have applied for and obtained such licences. The reason for this is a matter of common knowledge.

Up to the commencement of the war, diamond-cutting was a skilled trade exercised for the most part by persons resident in Holland, and even there the knowledge of this trade was confined to few. A further factor was the amalgamation of the mines at Kimberley in the later years of last century under one company. This amalgamation opened up the possibility of regulating the output and controlling the sale of rough and uncut diamonds according to the demands from time to time by the public for cut diamonds as articles of personal adornment, and this in turn would obviously enable those in control to prevent a fall in prices by a flooding of the market. In the early years of the present century the Premier Diamond Mine in the Transvaal was discovered and became a large producer; at about the same time smaller mines were worked in the Orange Free State. The system just indicated of controlling the sale was extended by means of arrangements between the De Beers Company at Kimberley and those controlling the Transvaal and Free State Mines, and by means also of the controlling interest which the larger shareholders of the first-named company acquired in the other mines. The industry was thus in a position to withhold the supply of rough and uncut diamonds to cutters in South Africa, and to send practically the whole output to Europe to be cut and polished in Holland, and from there to be placed on the market in London. The industry was able also to enter into similar arrangements before the war with those who controlled the output of diamonds under the German regime in German South-West Africa; and thus practically the whole output of South Africa passed to the control of one buying and selling agency. This was done by the establishment in London of what is known as the Diamond-buying Syndicate—a body of persons who bought from the producers according to the demand, and who were thus able within certain limits, by the control of the quantity available for sale, to fix prices. The effect of the war was twofold. In the first place, the demand for diamonds from the United States as articles of personal adornment grew owing to the increase in the number of Americans who in the earliest days of the war had amassed fortunes by supplying the needs of the belligerents. In the second place, it was discovered that, however skilled and exclusive a trade diamond-cutting may have been thought to be, it was possible to teach the trade in a very short time to discharged soldiers who had been maimed or badly wounded. The enterprise of one man brought about the establishment in England at Brighton of a diamond-cutting factory for which a sufficient supply of rough or uncut diamonds was received, and large numbers of such discharged soldiers were employed. This fact made the establishment in the Union on a large scale of a

diamond-cutting industry a practical question. During the visit of the Union Prime Minister to England in connection with the Peace Conference, he was approached by persons who offered on terms embodied in a draft contract to establish on a large scale a diamond-cutting industry in the Union, provided the necessary legislation was passed. The necessity for legislation consisted in the difficulty under which a diamond-cutting factory owner would labour in securing a supply of rough or uncut diamonds sufficient to make it worth his while to erect a factory with the necessary mills and machinery and engage trainers or teachers and employees. It was obviously undesirable to prohibit the export from the Union of rough or uncut diamonds for the purpose of inducing such a supply, and it was almost equally undesirable to attempt to accomplish the same object by means of an export duty in excess of what was required for purposes of the public revenue.

If, therefore, the desirability, owing to industrial or economic reasons, of establishing a cutting industry in the Union be assumed, it was necessary to legislate in order to ensure a supply of the rough or uncut stones; further, if the existence of cutting factories be assumed, it was desirable to regulate the manner in which they were carried on, so as to prevent abuses and illicit diamond buying. The Act under review gives effect to these two principles. The main clause in the Act is s. 3, which empowers the Minister of Mines, if he is satisfied that a licensed diamond cutter has been unable, by agreement with a diamond producer or dealer, to acquire on reasonable terms a regular supply of diamonds of such classes, qualities, and descriptions as will enable the cutter to carry on his licensed business, to compel the producer or dealer to sell such diamonds to the cutter on terms fixed by the Minister and described in the Act. In other words, the Minister is empowered to authorise the cutter to expropriate rough or uncut diamonds which he cannot obtain by a voluntary agreement on reasonable terms; but the rights of the producer or dealer are safeguarded by his being only compelled to sell in a "series" if such is the custom of the trade, and by securing to him a price equal to the current market price of the diamonds, *i.e.* the price which they would fetch in London; certain additions are made to the purchase price to allow for what would have been the cost of transport, insurance, and selling expenses if they had been sold in London. The producer or dealer's rights are further safeguarded by s. 4, which, prohibiting the purchaser, *i.e.* the cutter, from himself selling in a rough or partly manufactured or unpolished state the diamonds which he has been able to expropriate, ensures that expropriation will only take place for the purpose of cutting, and that advantage shall not be taken of such an extraordinary provision to undersell the producer and spoil any market which he may have in Europe for his rough or uncut stones. On the other hand, the sanction of the expropriation provision of s. 3 consists in the fact that, if the producer or dealer refuses to sell to the licensed cutter on the terms fixed by the Minister in accordance with this section, the producer or dealer is prohibited from selling any diamonds whatever to anyone else in the Union or exporting any diamonds therefrom. It may be mentioned that a producer only refers to a mine owner, and does not include the numerous individual workers in alluvial diggings. Alluvial diamonds, however, become subject to the Act when they are in the hands of dealers. I now come to the other principle of the Act, *viz.* Government control of the cutting industry. As indicated at the commencement of this

report, the existing laws of the Cape, Transvaal, and Free State prohibited diamond-cutting except under licence. Such a licence was easily obtainable, but was rarely applied for owing to the circumstances already related, viz. the difficulty of the licensee obtaining a regular supply on a large scale. The provisions of those laws relating to cutters' licences are repealed by the new Act, and in future all diamond-cutters' licences will be granted under s. 1 thereof. Under that section provision is made for the issue of licences by the Minister of Mines, who, in authorising the issue, is to be advised by a board of higher civil servants. He will be similarly advised in refusing or cancelling licences, and on other matters in connection with the carrying out of the Act. Application for a licence must be made to the Board, which is given full powers of inquiry, and is bound to secrecy in connection with matters discovered in the course of its investigations. The applicant must furnish securities to carry out the provisions of the Act, and the conditions of the licence, which is liable to cancellation if such provisions or conditions are contravened. One of these provisions is that the licensee may only employ in the work of cutting and polishing employees specially registered under the Act (s. 5), such registration being under conditions which the Government is empowered to prescribe by regulation [s. 6 (c)]. The object of this is obviously the prevention of illicit diamond dealing. The Government is also given full powers to issue regulations for preventing such illicit dealing as might be facilitated by reason of the provisions of the new Act. Of course the Government may also prescribe all necessary forms and conditions of licences, permits, and certificates. Parliament throughout the Act was asked to give and did give the Government the greatest possible latitude in administering it. With this intent a further clause (s. 7) empowers the Government to enter provisionally into contracts with persons who are willing to establish diamond-cutting factories in the Union; but such contracts must of course be in all respects in conformity with the Act, and must never confer anything in the nature of a monopoly of diamond-cutting. Such a contract will not be binding until ratified by both Houses of Parliament.

The Pretoria Mint Act, 1919 (No. 45 of 1919) is framed on the model of the Ottawa Mint Act. It is proposed to establish a branch of the Royal Mint in the Union at Pretoria as soon as economic circumstances permit. In the republican times a mint existed at Pretoria, and the gold and silver coins of the Kruger regime have since the annexation been legal tender in the Transvaal, and are now legal in the Union under a Royal Proclamation issued in 1911 under the Coinage Act of the 1870 Imperial Parliament.

The new Act charges the Union public revenues with the payment of the salaries and retiring allowances of the Imperial officers connected with the branch of the mint and the expenses incidental to its establishment at Pretoria. The Act also provides for the payment into Union revenue by the Deputy Mint Master or other proper officer of the mint of any fees, dues, and charges received and collected at this branch.

The Public Welfare and Moratorium Extension and Amendment Act, 1919 (No. 47 of 1919). Under the original Act of 1914 and the amending Act of 1917 it was possible to restrict and regulate imports and exports; to regulate the prices of the necessaries of life; to regulate the hours of opening and closing liquor-licensed premises, and other matters the special regulation whereof is desirable in times of emergency. But the Acts were expressed to be in operation only in time of war. The anti-

pated advent of peace rendered it necessary to extend this operation temporarily; otherwise the continued validity of the existing regulations, which were of great importance in the economic life of the country, would have been imperilled as well as the power to make additional regulations. The operation of the Acts has therefore been extended for a period not exceeding twelve months from the proclaimed date of peace (*i.e.* January 10, 1920) or till such earlier date as the Government may determine. Two trifling amendments have been inserted in this extending measure.

War Legislation.—The Acts passed as a direct consequence of the national effort during the war are the Public Servants (Military Service) Act and the War Special Pensions Act.

The Public Servants (Military Service) Act (No. 25 of 1919). During the war the Government, as far as it possibly could, with due regard to administrative necessities, released its own officials and employees—whether in the railway service, police and prisons service, or the ordinary public service—to enable them either to join South African contingents or to proceed overseas to join other units in Great Britain. This was done by the grant to the officer or employee of such leave on full pay as was then due to him and of further special leave on half-pay while he was upon military service. It was not unnatural that keen disappointment was felt by many officers and employees who, owing to the exigencies of administration, could not be spared to enlist. Many of these accordingly resigned their posts and became enrolled in the South African contingents or proceeded overseas to join other units, while some of these, having resigned, were subsequently rejected for military service on medical grounds or for other reasons.

Now that the war is over, it has been thought fitting to enable those men to rejoin the service which they left and on certain conditions to restore the pension rights which they forfeited by resignation, together with other advantages, such as incremental pay, which would have accrued to them if they had not resigned.

The Public Service Acts, together with the regulations under the Prisons, Police, and Railway Service Acts, prescribe certain qualifications (mainly as to age and physical fitness) which a new entrant to these services must possess. The men who resigned from the services for the reasons described above would in law be in the position of new entrants, and in many cases have ceased to possess these qualifications, while in every case they would have forfeited pension rights and other privileges.

The Act enables all these men to be readmitted to the posts from which they resigned or to posts of at least equal status for which they are suitable, provided they apply to the head of the department concerned, within six months of their discharge from military service, or, if they have been rejected for military service, within six months of the rejection, and in any case within six months after the promulgation of the Act. Each man readmitted will be regarded as having been on authorised leave of absence without pay during the period from the date of his resignation to the date of his readmission, and will thus, by paying pension contributions where such were payable by him, regain his pension privileges. In certain cases the payment of these contributions is waived. As indicated above, the period of his absence will also count for the purpose of increments in salary and wages.

One other clause in the Act is of a different nature. Certain members

of the public service and of the railway service were enemy subjects or were British subjects of enemy origin whom it was found necessary to intern during the war. They had been guilty of no conduct which brought them within the disciplinary clauses of the Public Service Acts. They were still civil servants, therefore, and as such possessed a definite status in the service and statutory rights. During their internment they were on enforced leave of absence from duty, but payment to them of emoluments was naturally withheld while they were thus absent. It was obviously undesirable that they should be in the position of being able to claim those emoluments on their release from internment—a claim which could not in law have been resisted. S. 11 of the Act therefore declares that these interned servants shall not, in respect of the period of internment, be entitled to payment of any salary, wages, or allowances as members of the public or the railway service.

The War Special Pensions Act (No. 42 of 1919). Special legislation for payment of pensions to South African soldiers wounded in the war, or to dependents of such soldiers who have been killed or who have died on active service, was first enacted in 1916. The Act then passed was repealed and re-enacted with modifications by Act No. 43 of 1917, which was subjected to amendment by Act No. 26 of 1918. That legislation has been the subject of recent reviews, and it is therefore unnecessary here to say more than that each Act was in the direction of securing benefits greater than those provided by the prior Act, for those in whose interest it was passed; while each Act also was designed to assimilate the benefits as far as possible to those which His Majesty's Military Forces in England obtain under the Royal Warrant, subject to the principle that the benefits obtained under the Royal Warrant by those members of South African contingents who served in Europe and East Africa were to be supplemented from Union Funds. Each Act also provided that those members of the public services of the Union who were granted leave of absence to enrol for active service—or their dependents (as the case may be) in the event of their death on active service—obtained pensions additional to those which they would have obtained if the incapacity or death had occurred in the performance of civilian duty. The new Act replaces the Acts of 1917 and 1918, except as to certain amendments made thereunder, relating to pensions of persons serving under the South Africa Defence Act, 1912.

Early in the 1919 session of Parliament a select committee of the House of Assembly was appointed to inquire into various matters connected with members of the South African contingents who had been on active service—matters such as arrear pay at Union rates, vocational training on discharge, and settlement of discharged soldiers on the land. One of the matters so referred to the committee was the adequacy or otherwise of the War Pensions Acts and the question whether or not the Union should bear the whole cost of these pensions. On the last-mentioned point the select committee in bringing up a Bill left the burden of the war pensions of non-civil service men as before, viz. it left the pensions to be borne primarily by the Imperial Government, and merely enabled Union Funds to supplement those pensions by bringing them up to certain amounts. The Union Government was, however, unable to accept that recommendation, and in introducing the Bill brought up by the select committee it inserted a clause (s. 50) specifically providing that all awards should be charged against and paid

out of the Consolidated Revenue Fund of the Union; it, however, reinserted in the next succeeding section a clause from the prior legislation to prevent a person obtaining a pension both under the Act and from sources outside the Union, *e.g.* from British funds.

No useful purpose would be served by describing in any detail the particular benefits which soldiers or their dependents may obtain under the new Act. It is sufficient to point out that the benefits are still kept assimilated as far as possible to the present pensions in England under the Royal Warrant, the increase in amount being due to differences in the pre-war earnings of the soldier and the assumed differences in the standard and cost of living in South Africa as compared with Great Britain.

There are, however, a few provisions of the Act to which special attention may be drawn:

(1) The Act (except in the special chapter dealing with Government servant volunteers) only applies in respect of persons who enrolled in Union contingents or Imperial units raised in the Union. (See definition of volunteer in s. 1.) The exception in the case of Government servants (Chapter IV.) is due to the fact that the Government servant is entitled under the Civil Service Pension Laws to a pension on incapacity, and his dependents are likewise entitled to benefits if he dies while in Government service. In the consideration of the question of war pensions, it became immaterial therefore whether the Government servant enrolled in a Union contingent or in any other unit of His Majesty's Forces. But in connection with Government servants it may be pointed out that they will under s. 29 (1) also obtain the benefit of Chapter II. relating to other disabled soldiers, or, if they are women, the benefit of Chapter V. relating to nurses.

(2) The widow of a deceased soldier will obtain a pension with children's allowances, if her husband was either killed or died during the war and his death was in consequence of military service, or if he dies within seven years as a result of wounds or injuries received on military service and in consequence of such service, or if he dies within seven years after discharge, from disease contracted or aggravated while on military service and in consequence of such service, unless in any such case the death was due to his own serious negligence or misconduct (s. 16). Where the death is not attributable to nor aggravated by military service, the widow, except where her husband's death was due to serious negligence or misconduct, will obtain a gratuity of not less than a year's or more than three years' pay of the soldier's rank (s. 20).

(3) A member of the South African nursing service will, for the first time, obtain under Chapter V. pensionable benefits on the same principles as regards degree of disablement as those enacted in the case of soldiers.

(4) The provisions of the Act are, by Chapter VI., extended to persons who fought on either belligerent side during the South African War, 1899-1902, or who fought with any European force in any previous South African war, deductions being made in respect of any pensions or allowances previously awarded in respect of the same service; but the person desiring the award of a pension under this chapter must apply within two years after the promulgation of the Act; must have been at the time of his service a British subject or a burgher of one of the two republics; and must also *now* be domiciled in South Africa as well as have been domiciled there at the time of his service.

(5) The Act will, as in the case of the previous war pensions Acts, be administered on the recommendation of a military pensions board, but the decision of the Treasury will be final and conclusive on all questions arising under it. The Treasury has a complete discretion to withdraw or suspend any pension or to impose conditions as to its administration.

Financial Legislation.—The Acts which fall under this category include, in addition to fourteen Appropriation Acts, the Diamond Export Duty Act (No. 34 of 1919), which raises the export duty from 5 to 10 per cent. of the value of diamonds exported from the Union (s. 2); applies the export duty for the first time to alluvial diamonds (ss. 1, 4, and 10); and makes permanent the restriction whereby diamonds may only be exported by registered post through Kimberley and Johannesburg. That restriction was hitherto confined to the period of the war.

The Customs and Excise Duties Act (No. 32 of 1919) increases customs duties on beer, cider, spirits, and certain articles used in commerce; and increases excise duties on spirits manufactured and beer brewed in the Union. In addition, the increases of customs and excise duties imposed in 1915 for one year as additional taxation necessitated by war expenditure—increases which had re-enacted each year since 1915—were again reimposed until June 30, 1920.

In connection with this taxation an amendment to the Customs Management Act, 1913, was enacted by Act 27 of 1919, under which the principle of charging increased customs duties as from the date of notification in Parliament of the proposed increases was extended to open stocks of imported spirits, that is to say, spirits which had passed out of bond into the hands of dealers.

The Income-tax (Consolidation) Act Amendment Act (No. 39 of 1919), in addition to fixing the rates of normal income-tax and super-tax for the current income-tax year (*i.e.* in respect of incomes accruing during the twelve months ending June 30, 1919), also increases the rate of excess-profits duty from 25 per cent. to 50 per cent. and removes the special appropriation of this duty to loan account for war expenditure. The opportunity afforded by the necessity of passing this Act has been taken to remove certain anomalies in the principal Act and to amend it in certain minor details. The chief of these amendments is the grant of further abatements in respect of the children of any person whose income is less than £500 a year, and further allowances in respect of insurance premiums paid by such a person. Another amendment enables the income of husband and wife to be separately assessed for income-tax if either spouse so prefers, provided the aggregate amount payable by both is not less than the amount which would have been received if the incomes had been jointly assessed.

The General Loans Further Amendment Act (No. 20 of 1919) has as its sole object the legalisation of the issue of loan certificates on terms and conditions similar to those employed in Great Britain in connection with war savings certificates. Legislation was necessary because the principal Act limited the Government's powers of raising money to the issue of consolidated stock—local stock, Treasury bills, and advances from banks. The principal Act is also amended so that debentures may be issued for sums of £10 instead of the previous minimum of £100.

Miscellaneous Legislation.—Legislation under this category included (1) the Precious Stones (Alluvial) Amendment Act (No. 15 of 1919), under which conditions of workings and of title on the alluvial diamond

diggings in Cape Colony and the Transvaal respectively are assimilated ; (2) the Marriage Registers and Certificates Act, under which the provincial registrars of births are made custodians of marriage registers and can issue certified copies. Since Union all such registers had, owing to an interpretation of pre-Union laws, been centred in the office of the Minister of the Interior at Pretoria.

The Bills of Exchange (Time of Noting) Act (No. 23 of 1919) provides that it shall not be necessary to note a bill of exchange, note, or cheque on the day on which it is dishonoured, but it is sufficient to note it on the next succeeding business day. "Business days" are of course all days except Sundays and the proclaimed public holidays. The Act therefore gives the necessary latitude in the case of the dishonour of bills late on a Saturday immediately before banks are closed.

The Amnesty Act (No. 46 of 1919) removes the disqualifications imposed by Act 11 of 1915 upon a large number of persons who took up arms against the Government in the rebellion of 1914. The disqualifications were of two natures. Those who were actually convicted of treason by the special criminal court were liable under the electoral laws to disfranchisement, in addition to the sentences of imprisonment imposed upon them, sentences which were shortly after remitted. These persons numbered less than a hundred. There were many others—running to thousands—who were by the Act of 1915 subjected to certain disqualifications for a period of ten years—such as inability to be elected to or to hold public office, to be employed by the Government, or to hold licences to possess arms and ammunition. The persons convicted of treason were subjected to s. 7 of the Act of 1915 to these disqualifications also.

All these disqualifications were by the new Act removed as from the date of the public proclamation of peace—January 10, 1920.

Another clause removes disabilities attaching to the nine persons whose deportation after the general strike in January 1914 was validated by s. 4 of Act No. 1 of 1914. These persons can now no longer (as provided by that section) be regarded as prohibited immigrants in the Union and liable to be again deported. Nearly all these nine persons were permitted to return after the outbreak of the war in 1914, and some of them have since taken an active and honourable part in public life.

2. CAPE OF GOOD HOPE.

[Contributed by G. M. SWIFT, Esq.]

1918.

Ordinances passed—26.

Education.—No. 7 abolished local rating for school-board purposes, throwing the liability for any deficit of a school board upon the Provincial Revenue Fund. No. 12 provided a scale of grants-in-aid of the salaries of teachers in educational institutions for coloured (as distinct from native) pupils. No. 13 was an Ordinance similar to No. 12, applicable to institutions for native pupils. No. 14 provided for the use of Afrikaans (Cape Dutch) in the lower classes of public schools.

Game.—No. 17 legalised the export free of duty of the horns, hides, or skins of royal game and the tusks of elephants and hippopotami

accompanied by a certificate of any African Customs authority that duty had already been paid.

Nurses' Salaries.—No. 18 provided a scale of salaries for all nurses in State-aided hospitals, and for the conditions of service and pensions of such nurses.

Taxation.—No. 5 provided for payment of a duty on entertainments upon the lines of the English Act. No. 6 imposed a tax of three-eighths of a penny in the pound upon the value of immovable property in the Province.

Miscellaneous.—Under this head fall various amending Ordinances dealing with minor municipal matters, vermin extermination, shop hours, and the like in addition to the usual financial measures.

1919.

Ordinances passed—26.

Education.—No. 5 provided for the establishment of industrial schools in connection with boarding-houses for indigent children, with the object of providing industrial training for poor European children. No. 8 amended the law relating to compulsory school attendance, making such attendance compulsory for all European children between the ages of seven and sixteen. Certain exemptions were provided, of which the most important was that exempting a child who has passed the sixth standard and is engaged in a regular occupation. No. 9 dealt with the desertion of pupils from industrial schools and boarding-houses provided for indigent children, and imposed a penalty upon any person aiding and abetting a pupil to desert from these institutions. No. 10 in effect applied the law relating to public schools under school boards to all public schools for European children situated outside school-board areas. No. 21 amended in certain respects the existing law relating to the salaries and pensions of European teachers. No. 25 provided for the recognition and use of Afrikaans (Cape Dutch) as well as Dutch (Nederlands) as a medium and subject of instruction in public schools.

Municipal.—No. 23 empowered municipal councils to advance money to persons of limited means to enable them to build homes for themselves. Under this head fall a number of miscellaneous Ordinances amending laws relating to particular municipalities.

Poor Relief.—No. 4 provided for a system of poor relief based on the co-ordination of the efforts of the Government, Local Authorities, and Charitable Societies. It defined in Part I. the nature of relief to be given by Government and local authorities respectively. In Part II. it provided for the registration of charitable institutions and societies and for the financial assistance to be given out of Government Funds, and from local rates to any institution or society so registered. Part III. contained general provisions, and in particular provision for the establishment of boards of aid in urban centres charged with the duty of administering the forms of relief laid down in Part I.

3. TRANSVAAL.

[Contributed by G. HARTOG, ESQ.]

Total passed—15, of which 5 were Appropriation Ordinances.

Municipal Elections.—Ordinance 7 of 1919 amends the principal Ordinance (No. 8 of 1912) by an addition to s. 15 thereof, providing for the preparation by order of the Administrator of the first voters' roll for any municipality, subject to the cost being borne by such municipality; fixing the month of May of any subsequent year (every three years after the completion of such first roll) for the framing by municipal councils of subsequent rolls. By s. 47 of Ordinance 8 of 1912 it was the duty of returning officers to reject ballot papers which gave votes to fewer candidates than the voter is entitled or obliged to vote for. Ordinance 7 of 1919 repeals this ground of rejection.

Local Government.—The principal Ordinance, No. 9 of 1912, is amended by Ordinances 8 and 14 of 1919 in a number of respects, notably:

(1) The power of town councils conferred by s. 60 of the principal Ordinance to erect public or municipal buildings on squares vested in them is extended to include provision of playgrounds for Government schools, and the meaning of public buildings is extended to include Government school hostels.

(2) The powers conferred by s. 87 of the principal Ordinance are extended to enable local authorities (a) to make grants towards any national or public object; (b) to establish, erect, equip, and maintain Government schools, boarding-houses, or hostels.

(3) S. 127 of the principal Ordinance is amended so as to place the expenditure incurred by magistrates in connection with village council elections upon village councils.

(4) S. 178 of the principal Ordinance is amended to empower the Administrator by proclamation to appoint fit and proper persons (not being less than five nor more than seven) to form a town council with jurisdiction over any area which has been constituted a municipality for the first time, or has been severed from a municipality and constituted a separate municipality, with the necessary powers and duties, pending the first election of a town council, and to provide for the continuance of by-laws in the severed areas which at the date of severance were operative in the whole area until altered or amended.

(5) Ss. 61 and 62 of the principal Ordinance are amended to include power to town councils to close (upon the conditions prescribed for the closing of streets), temporarily or permanently, squares and other open spaces, gardens, parks, and other enclosed spaces, provided that where any such space or street is permanently closed the Administrator's approval must first be obtained.

(6) The powers conferred upon town councils by s. 71 (7) of the principal Ordinance with regard to recreation grounds are extended to include the erection and maintenance of pavilions, dressing-rooms, etc., therein, to make charges therefor, or to let the same to any person, club, or school, and to permit the latter to make charges, to provide and charge for, or permit others to provide and charge for, apparatus for games thereon, and to provide, maintain, and manage refreshment rooms and restaurants thereon, or in any public gardens or baths, or to let such to others.

Rating.—Ordinance 12 of 1918 is amended by Ordinance 9 of 1919 by providing that an owner's present rights to the surface of proclaimed land shall remain rateable property.

Shop Hours.—Ordinance 10 of 1919 amends s. 3 of the principal Ordinance (No. 14 of 1916) by providing that where a shopkeeper has elected to close on Saturdays at 1 p.m. he may on notice to the shop inspector nevertheless keep open his shop till 9 p.m. on not more than six Saturdays during the twelve months for which his election binds him.

The object of this amendment is to enable stores in country towns whose owners prefer Saturday closing to meet the needs of the country population who may come to town for the quarterly "nachtmaal," and remain over the week-end.

Private Hospitals.—Ordinance 6 of 1919 provides for the registration of private hospitals and for the regulation of the hours of employment of nurses therein. "Private hospital" is defined as any institution (not being a hospital on the schedule of Ordinance 5 of 1915, nor a hospital maintained wholly from provincial or other public funds) for the reception of six or more persons for the purpose of receiving medical attention and/or skilled nursing. A certificate of registration issued by the Administrator is required under penalty, and the hospitals are made subject to inspection. Nurses' hours at such hospitals are regulated on similar lines to those of nurses in provincial hospitals (see Ordinance 6 of 1917).

Nurses' Pensions.—Ordinance 13 of 1919 establishes a pension fund for nurses (not being probationers) in provincial hospitals, the rate of contribution being much the same as that laid down for female teachers in Ordinance 15 of 1918.

Taxation.—The financial needs of the Province were met (in part) by the following: (1) An Increment Value Duty by Ordinance 5 of 1919. This was a tax rising from 5 per cent. to 25 per cent. according to the ratio of profit to aggregate cost, arising from any disposal of fixed property in connection with which Transfer Duty is payable under Proc. 8 of 1902. Profit is defined as the excess of the disposal value above the aggregate cost of acquisition. This includes the purchase consideration, the value of improvements (as defined in the Ordinance) at the date of the transaction, and the costs of transfer, and any other necessary charges that may be allowed by the Revenue Officer. The duty is payable by the person who receives or is entitled to the profit realised. The amount of the duty is subject to an abatement of $2\frac{1}{2}$ per cent. for each completed year from the date of acquisition. Exempt are disposals by way of legacy or inheritance; donations to persons related to the donor within the second degree or by virtue of an ante-nuptial contract; disposals by ecclesiastical, charitable, or educational institutions of a public character, and any donations for such purposes.

(2) Licensing Ordinance 11 of 1919. This requires: (a) Those who carry on the business of attorney, doctor, land surveyor, dentist, advocate, architect, registered accountant, agent, or broker to take out a yearly licence at a cost of £5. (b) General dealers, as defined in Ordinance 17 of 1917, to pay, in addition to the fee of £1 there prescribed, an annual licence fee at the rate of £1 for every £1,000 (or part thereof) of the *annual turnover* of his business during the preceding year, when the turnover does not exceed £5,000; and £2 for every £1,000 as aforesaid when the turnover exceeds £5,000 up to a maximum additional fee of £300.

V. BRITISH INDIA.

[Contributed by the HON. A. P. MUDDIMAN, C.S.I., C.I.E.]

I. ACTS OF THE INDIAN LEGISLATIVE COUNCIL.

Acts passed—27.

War Pensions.—The Local Authorities Pensions and Gratuities Act, 1919 (No. 1), enables pensions and gratuities to be granted by local authorities to persons who, being in the employ of local authorities when the Great War broke out, proceeded on active service as Government servants, and were wounded or otherwise incapacitated in such service. It also permits of pensions and gratuities being granted by local authorities to the widows or children of persons in a similar position, who have died in consequence of injuries or disease in the course of such service. No pension or gratuity is to be granted under the Act except with the sanction of the local government.

Paper Currency.—The Indian Paper Currency (Amendment) Act, 1919 (No. 2), continues the further inflation of the paper currency which was authorised by the similar Act of 1918 (No. 6), and increases the maximum limit for the issue of currency notes to 800 millions.

Motor Spirit.—The Motor Spirit Duties (Amendment) Act, 1919 (No. 3), by repealing the provision in the Motor Spirit (Duties) Act, 1917, which limited the duration of that Act for the period of the war and six months thereafter, provides for the continuance of the imposition and levy of the duty on motor spirit.

Income-tax.—The Indian Income-tax (Amendment) Act, 1919 (No. 4), makes certain amendments in the Indian Income-tax Act, 1918, so as to raise the minimum limit of taxable incomes from Rs. 1,000 to Rs. 2,000 per annum, thus affording relief to persons with small incomes who were seriously affected by the great rise in prices. The exemption of incomes below Rs. 2,000 obviated the necessity for any summary assessment procedure, and the sections of the principal Act dealing with such assessment were accordingly repealed.

Termination of the War.—The Termination of the Present War (Definition) Act, 1919 (No. 5), declares that for certain purposes the date of the termination of the Great War as a whole or of the war between Great Britain and any particular State, shall be such date as may be declared by His Majesty in Council in pursuance of the powers conferred by the termination of the present War Definition Act, 1918 (8 and 9 Geo. V. c. 59).

Oaths.—The Indian Oaths (Amendment) Act, 1919 (No. 6), exempts from the operation of the Indian Oaths Act, 1873, any oath prescribed by or under any instructions under the Royal Sign Manual of His Majesty. S. 16 of the latter Act is a bar to the taking of an oath by officials who are not required to take one under any provision of law, and the object of the amendment was to enable certain high officials to take oaths of allegiance and office in future at the time of assumption of office, in accordance with such instructions.

Defence Force.—The Indian Defence Force (Amendment) Act, 1919 (No. 7), extends the duration of the Indian Defence Force Act, 1917, for a period of one year after the termination of the war.

Negotiable Instruments.—The Negotiable Instruments (Amendment) Act, 1919, was an Act promoted by a non-official member. It amends the Negotiable Instruments Act, 1881, so as to avoid the decision of the Bombay High Court in *Dorsabhoy v. Virchand*, that a cheque payable to a specified person was not a negotiable instrument. The Act brings the Indian law into accordance with the English law, and also with the hitherto existing practice in India.

Punjab Courts.—The Punjab Courts (Supplementing) Act, 1919 (No. 9), was passed in consequence of the elevation of the Punjab Chief Court to the status of a chartered High Court, and provides that pending proceedings in the Chief Court of the Punjab shall be continued and concluded in the High Court of Judicature at Lahore.

Excess Profits.—The Excess Profits Duty Act, 1919 (No. 10), was a measure which caused considerable controversy. Although it was passed after the actual cessation of hostilities, it avowedly took only war profits. The provisions of the Act are complicated, and of considerable interest. The duty or tax is imposed only on the profits made during twelve months corresponding with the financial year 1918–19, and is leviable on every business including all ventures or concerns in the nature of trade, commerce, or manufacture. It is chargeable on the amount by which the profits in the accounting period exceed the standard profits. For determining the profits in the accounting period, the general standard is the taxable income as finally ascertained for the purpose of the Indian Income-tax Act, 1918. Standard profits may be determined in either of two ways:

- (i) Ten per cent. on the capital of the business, or such rate not being less than 10 per cent. as may be prescribed; or
- (ii) At the option of the assessee the average of the two years 1913 and 1914, or of the five years 1913 to 1917.

Power is given to the revenue officers to make allowance for certain special circumstances, one of which is the liability of any part of the profits of the business to excess-profits duty in the United Kingdom. An appeal is given from the assessing officer to the chief revenue authority, who may either decide the appeal or refer it to a special board of referees. The board of referees must contain at least two persons who are not officials and who have adequate business experience. A general power is given to the Governor-General to deal with hardship in the case of a class of business. The Act further contains a number of administrative provisions which apply *mutatis mutandis* the relevant provisions of the Indian Income-tax Act, 1918. A penalty is prescribed in the case of fictitious or artificial transactions entered into for the purpose of avoiding payment of excess-profits duty. The excess-profits duty and supertax under the Supertax Act, 1917, are to be chargeable alternately and not cumulatively, and excess-profits duty is to be allowed as a deduction for the purposes of the Indian Income-tax Act.

Criminal Law.—The Anarchical and Revolutionary Crimes Act, 1919 (No. 11), which is better known under its popular title of the Rowlatt Act, was an Act which excited considerable feeling in India, and was passed to give effect to the recommendations of the Committee presided over by Mr. Justice Rowlatt from England. The Act does not come into operation until the date of the termination of the war, and is to continue in force for three years from that date. Part I. of the Act provides a special summary procedure for the trial of certain scheduled

offences which can be brought into operation when the Governor-General in Council is satisfied that anarchical and revolutionary movements are being promoted, and the scheduled offences in connection with such movements are prevalent to such an extent that it is expedient in the interests of public safety to provide for the speedy trial of such offences. It can be brought into operation either in the whole or in any part of British India. The scheduled offences are important offences against the person or against the State, or offences against the Explosive Substances Act, or s. 20 of the Indian Arms Act, 1878. Proceedings are initiated by a written information preferred by an officer of Government to the Chief Justice. A court is then constituted with three High Court judges. Special provisions are laid down as to the procedure, with the object of securing a speedy trial, and power is given to the court to restrain publication of reports of the trial. The accused is enabled to give evidence in his own defence if he so desires on oath, and protective provisions following the English law as to the examination of accused persons on oath are enacted. The interference of other courts is excluded and special power is given to admit statements of persons recorded by magistrates or by the court where the person is dead or cannot be found, or is incapable of giving evidence and the death or absence or incapacity of such person is believed to have been caused in the interests of the accused.

Part II. of the Act confers extensive powers on the executive government. This part also can only come into force by special notification of the Governor-General in Council, which, as before, may be in respect of either the whole or any part of British India. It enables persons suspected of connection with revolutionary or anarchical movements likely to lead to the commission of scheduled offences to be subjected to certain restrictive orders, but no such orders can be passed till the local government has obtained the advice on the facts of the case of a judicial officer qualified for appointment to a High Court. The order to be made in the first instance is merely an interim order, and where an interim order has been made against any person the matter must be referred to an investigating authority, who is required to hold an inquiry *in camera* and report to the local government. At such inquiry the person concerned is entitled to appear in person and offer an explanation. The local government on receipt of the report may either discharge the interim order or confirm it; but the order as confirmed must recite the conclusions of the investigating authority and a copy of the order must be given to the person concerned. Orders are limited in duration for a period of one year, but on the expiration of that period a fresh order may be made, in which case the person affected thereby is entitled to make a representation to the local government, which must thereafter be referred to an investigating authority on whose report the local government can alone dispose of the matter. The power to make a new order is limited to one year. The investigating authority must consist of two persons who have held judicial office and one person who is not an official. Provision is made for the appointment of visiting committees to report upon the welfare of persons under restraint under this part, and wide rule-making powers are taken.

Part III. can only be brought into effect in the circumstances necessary for the introduction of Part I. Where this part is in force, the local government may, subject to the provisions as to consulting

a judicial officer and as to investigating authorities, direct the arrest or confinement of any person believed to be concerned in a scheduled offence. Powers of arrest and search are also given, but, subject to the increased power of restraint provided by the part, the procedure laid down in Part II. applies *mutatis mutandis*.

Part IV. deals with the case of persons already under executive control under the provisions of other enactments when the Act comes into force, and continues any restraint which has been imposed under the Defence of India (Criminal Law Amendment) Act, 1915, and is still in force on the expiration of that Act ; but within one month from the expiration of that Act the case must be referred to the investigating authority if the person affected so desires. No order made under the Act may be called in question in any court.

Poisons.—The Poisons Act, 1919 (No. 12 of 1919), consolidates and amends the law relating to the importation, possession, and sale of poisons. It repeals the Act of 1908. The main amendments of substance are that the powers which under the old Act were only exercisable in respect of white arsenic are now exercisable in respect of any specified poison. Additional power is given to local governments in dealing with the matter, and the exemptions contained in the previous law have been reduced. The only persons who are now exempted by the Act itself are medical and veterinary practitioners in respect of acts done in good faith in the exercise of their profession.

Sea Customs.—The Sea Customs (Amendment) Act, 1919 (13 of 1919), amends the main Act, No. 8 of 1878, so as to empower collectors of customs to take samples of imported foods or drugs when so authorised by the local government. The object of the Act is to check the import of adulterated articles of these classes.

Provident Funds.—The Provident Funds (Amendment) Act, 1919 (No. 14 of 1919), makes a small amendment in the Provident Funds Act, 1897, which includes provident funds constituted for teachers in educational institutions within the definition of "Government Provident Fund" contained in the principal Act.

Calcutta High Court.—Owing to the disappearance of the original metes and posts described in the Proclamation issued by the Governor-General in 1794, the limits of the court's ordinary original civil jurisdiction had become difficult of ascertainment. The Calcutta High Court (Jurisdictional Limits) Act (No. 15 of 1919) defines them in the schedule to that Act.

Naturalisation.—The Indian Naturalisation (Amendment) Act, 1919 (No. 16 of 1919), amends the Indian Naturalisation Act, 1852, which is a local naturalisation Act enabling the executive authorities to grant certificates of naturalisation which have effect only within British India. Under the existing law there was no power to cancel a certificate of naturalisation unless it was proved that the person who secured it was guilty of making false statements in his application. The experience of the war showed that further powers of cancellation were very advisable. This had been recognised in the case of the general law of the Empire by the British Nationality and Status of Aliens Act, 1918 (8 and 9 Geo. V. c. 38). The Act following that law provides for the revocation of a certificate of naturalisation where the person to whom a certificate was granted has shown himself by act or speech to be disaffected or disloyal to His Majesty, or is shown to be otherwise unfit to continue to enjoy

the privileges of British nationality. The Act is an adaptation to Indian conditions of the provisions of the English Law.

Land Acquisition.—The Indian Land Acquisition (Amendment) Act, 1919 (No. 17 of 1919), places registered societies within the meaning of the Co-operative Societies Act, 1912, in the same position as companies for the purpose of the compulsory acquisition of land required for their corporate purposes. Societies registered under the Societies Registration Act, 1860, are also by this Act admitted to the same privilege.

Statute Law Revision.—The Repealing and Amending Act, 1919 (No. 18 of 1919), continues the periodical pruning and revision of the statute-book which is undertaken by the Indian Legislature almost every year.

Tariff.—The Indian Tariff (Amendment) Act, 1919 (No. 19 of 1919), enables the Government of India to levy a duty of 15 per cent. on raw hides and skins exported to foreign countries, with a rebate of 10 per cent. on hides and skins tanned within the Empire.

Arms.—The Indian Arms (Amendment) Act, 1919 (No. 20 of 1919), gives facilities for the sale or disposal by other lawful means of arms the possession of which has become unlawful owing to a change in ownership out of the control of the possessor.

Coinage.—The Indian Coinage (Amendment) Act, 1919 (21 of 1919), amends the India Coinage Act, 1906, so as to allow nickel coins to the face value of eight and four annas respectively to be coined. The Act provides that such coins shall be legal tender up to one rupee, and also allows the cutting of counterfeit nickel coins.

Cantonments.—The Cantonments (Amendment) Act, 1919 (No. 22 of 1919), amends the principal Act of 1910 in two ways. In the first place, it removes a doubt which had previously existed as to whether fees could be imposed for the grant of licences to persons carrying on certain trades in cantonments. In the second place, it strengthens the provisions in the Cantonments Act so as to provide for the suppression of brothels and a more effective prevention of prostitution in cantonments.

Cinematographs.—The Cinematograph (Amendment) Act, 1919 (No. 23 of 1919), amends the Cinematograph Act of 1918 in order to allow of the introduction of the Act piece-meal, and further delegates many of the powers conferred under the previous Act on the Governor-General in Council to the Local Government.

Companies.—The Indian Companies (Repealing of Restrictions) Act, 1919 (No. 24 of 1919), withdraws the restrictions necessitated by war conditions which had been imposed by the Indian Companies (Restriction) Act, 1918.

Merchant Shipping.—The Indian Merchant Shipping Law (Amendment) Act, 1919 (No. 25 of 1919), removes vessels temporarily hired by Government from the category of Government vessels, and so from the exemption conferred by s. 114 of the Indian Merchant Shipping Act, 1859, and s. 5 of the Indian Merchant Shipping Act of 1883.

Paper Currency.—The Indian Paper Currency (Further Amendment) Act, 1919 (No. 26 of 1919), gives power to Government to increase their issue of currency notes against securities by twenty crores, raising the maximum from one hundred to one hundred and twenty crores, and, secondly, enables reserve gold acquired by the Secretary of State on behalf of the Government of India to be held as part of the Paper Currency Reserve if held in the United States or in transit therefrom to India.

The Act is another of the many financial measures of this kind necessitated by the financial difficulties arising out of the war.

Indemnity.—The Indemnity Act, 1919 (No. 27 of 1919), was passed to indemnify officers of Government and other persons in respect of certain acts done under martial law. In the spring of 1919 disorders broke out in certain districts in the Punjab and in other parts of India, and it was necessary for the executive government to resort to martial-law administration. The Act indemnifies officers and persons who have acted in good faith and in a reasonable belief that their action was necessary for the purpose of maintaining or restoring order in any part of British India where martial law was in force on or after March 30, 1919, and before August 26, 1919.

It further confirms and continues sentences passed by any authority acting under martial law, and gives persons whose property has been taken or used for the purposes of martial law a right to compensation for any loss immediately attributable to any such action.

2. MADRAS.

Acts passed—7.

Insect Pests.—The Madras Agricultural Pests and Diseases Act, 1919 (No. 3 of 1919), was passed with the object of preventing the spread of insect pests, plant diseases, and noxious weed in the Presidency of Madras. It enables any insect pest, plant diseases, or weeds to be notified under the Act, and thereafter restrictions to be placed on the removal of plants from one place to another and other preventive measures to be prescribed.

The remaining sections provide the procedure required for making the exercise of these powers effective, and cast a duty on the occupier of land to carry out the prescribed measures, failing which they may be carried out by the authorities and the cost recovered from the defaulter. There are certain provisions which enable compensation to be awarded for the destruction of trees or plants in the execution of the remedial or preventive measures.

Madras City.—The Madras City Municipal Act, 1919, repeals and re-enacts with numerous amendments the previous law on the same subject. The principal amendments relax the control of the local government over the Madras Corporation. They substitute an elected chairman for the Corporation for a nominated official Commissioner, which was the previous arrangement. The Bill also raises the number of elected members, provides for certain additional and increased taxation, and amplifies the provisions of the existing law as to elections.

Madras Forests.—The Madras Forest (Amendment) Act, 1919, enables the powers of the Board of Revenue under the Madras Forest Act, 1882, to be delegated by the Governor in Council to the Chief Conservator of Forests.

The remaining Madras Acts passed are either minor amending Acts or of purely local interest. One bears the portentous title of "the Koodalmanickam Devaswom Act, 1918," and concerns a personage known as the Thachudaya Kaimal.

3. BOMBAY.

Acts passed—6.

Cotton Contracts.—The Bombay Cotton Contracts Control (War Provisions) Act, 1919, is an Act limited in duration to the continuance of the war and for a period thereafter not less than six months nor more than two years as the local government may direct. Its object is to restrict speculation in Bombay in regard to cotton contracts. It constitutes a Cotton Contracts Board, of whom the majority are appointed by the Governor in Council. The remainder are elected to represent the cotton trade. The Board is a corporate body and is given power to make rules and by-laws providing for a clearing-house, for the periodical settlement of differences on contracts, and for the passing on of delivery orders, and generally for dealing with cotton contracts, settling days, and other such matters, and also for enabling market rates for cotton to be fixed, which shall be binding for all purposes connected with contracts relating to cotton. Powers are further given to regulate the performance of such contracts and for the consequences of insolvency and the responsibility of commission agents, licensing of brokers, and other subsidiary matters. Contracts made in contravention of any rule or by-law are declared to be void, whether either party thereto is or is not a member of the clearing-house.

Gambling.—The Bombay Prevention of Gambling (Amendment) Act, 1919 (No. 6 of 1919) amends the previous law on the same subject. The main objects of the Act are to make it clear that "bucket shops" or betting offices are within the Bombay Prevention of Gambling Act, 1887, and to suppress betting in the streets and other public places. The remaining Bombay Acts are purely of local interest.

4. BENGAL.

Acts passed—7.

Hackney Carriages.—The Calcutta Hackney Carriages Act, 1919 (No. 1 of 1919), consolidates and amends the law relating to hackney carriages and palanquins in that place, and brings within the scope of the law rickshaws, which have recently begun to ply for hire in increasing numbers in Calcutta.

Juvenile Smoking.—The Bengal Juvenile Smoking Act, 1919 (No. 2 of 1919), enacts in Bengal legislation dealing with a subject which has begun to attract the attention of the local legislature. It follows in general terms the Punjab Juvenile Smoking Act, 1918, which was referred to in the *Review of Legislation* for the year 1918.

Tenancy Legislation.—The Bengal Tenancy (Amendment) Act, 1919 (No. 3 of 1919), gives further protection to tenants against the excessive levy of road or public works cesses, which, subject to certain reservations, are declared to be illegal.

Education.—The Bengal Primary Education Act, 1919 (No. 4 of 1919), provides for the extension of primary education in municipalities and in certain other areas in Bengal. In areas where the Act is in force, which in the first instance are to be municipalities, the municipalities are to submit a statement to the local government giving particulars

as to the number of children and educational facilities and expenditure incurred by the local authority on education. If the local government is satisfied on consideration of this statement that the municipality is able to meet the expenditure involved, it may direct the municipality to provide school accommodation and to take over the management of the schools.

The third part of the Act deals with compulsory education, and can only be brought into operation after an order has been made as before mentioned. If a municipality is of opinion that primary education of boys should be made compulsory, it may apply for permission to introduce compulsory primary education for boys. If the local government is satisfied that the municipality is able to meet the expenditure involved, it may direct that, from date to be mentioned, primary education will be compulsory within the municipality, or any part thereof. Where the part applies a school committee is to be constituted, and it becomes the duty of guardians to send boys to school. Attendance may be enforced by an order of the magistrate and penalties are provided. Persons are prohibited from employing, without the permission of the school committee, any boy between the ages of six and ten, and the contravention of this provision is made penal. Where the existing resources of a municipality are not sufficient to cover the cost of primary education, the Commissioners by a resolution passed at a general meeting convened for the purpose may, if the resolution is passed by a two-thirds majority, impose an education cess.

Village Self-government.—The Bengal Village Self-government Act, 1919 (No. 5 of 1919), is an interesting measure which seeks to build up a system of rural self-government based on village authorities vested with the powers and duties necessary for the management of communal village affairs and entrusted with the powers of self-taxation necessary for that purpose. It sets up an authority called the Union Board, which will exercise a general control of the police of the locality, and is vested with powers to provide for village sanitation, conservancy, and drainage; to deal with the erection of buildings, water supply, village roads, and bridges, and to manage primary schools and dispensaries. Power is also given by the Act to confer jurisdiction in petty civil and criminal matters on all or any of the members of the Union Board.

The Act is the direct result of the District Administration Committee appointed by the Government of Bengal in 1913, recommending a reorganisation of the system of village self-government in that Province. The future of the authorities constituted under the Act will be watched with interest, and it seems to many persons acquainted with India that reconstruction from the bottom is the necessary corollary to the attempt to introduce self-governing institutions in higher spheres of administration.

The Act, which is a lengthy one containing 103 sections and 4 schedules, provides for the general supervision of the district authorities of the new institutions and involves a considerable measure of delegation from the district boards and the district magistrates.

Adulteration of Food.—The Bengal Food Adulteration Act, 1919 (No. 6 of 1919), follows the lines of recent Acts, dealing with the same subjects, in other Provinces.

The remaining Bengal Act, 1919, the Calcutta Suburban Police (Amendment) Act, 1919, makes an amendment in the existing law in

relation to Calcutta, and provides that a police officer under suspension shall, although his powers are in abeyance, continue, subject to the same responsibilities, discipline, and penalties, as if he had not been suspended.

5. BIHAR AND ORISSA.

Acts passed—3.

Primary Education.—The Bihar and Orissa Primary Education Act, 1919, enables the local authority in any area to declare that the primary education of children ordinarily residing in the area within its jurisdiction or any part thereof shall be compulsory. It covers the case of children of both sexes, and is not confined like the Bengal Act to boys only. The notification can only be issued with the sanction of the local government after a resolution passed at a special general meeting convened for the purpose by a two-thirds majority, and the local government must be satisfied that the authority is in a position to make and intends to make proper financial provision for the schools. The other provisions of the Act follow the general lines of those which are contained in the Bengal Act referred to above.

Food Adulteration.—The Bihar and Orissa Food Adulteration Act of 1919 is another of the Acts dealing with this subject which have been and are being passed in all local legislatures; it calls for no special comment.

The remaining Bihar Act of 1919 is of no general interest.

6. ASSAM.

Acts passed—I.

Local Self-government.—The only Act passed in the year was an Act making a small amendment in the Assam Local Self-government Act, 1915, providing for the recovery of fees and demands not already provided for by the Act.

7. UNITED PROVINCES.

Acts passed—8.

The first three Acts passed in the United Provinces in 1919 make small amendments of little general interest.

Excise.—The United Provinces Excise (Amendment) Act, 1919 (No. 4 of 1919), strengthens the law in respect of offences relating to cocaine. It imposes a penalty on the owner, occupier, or person having the use of any place where such place is used for the commission of an offence in respect of cocaine. It further enables a person convicted of an offence in respect of cocaine to be required to execute a bond with the condition that the person bound shall abstain from offences under the Excise Act in respect of cocaine. The security sections of the Criminal Procedure Code are *mutatis mutandis* made applicable to such bonds.

Town Improvement.—The United Provinces Town Improvement

Act, 1919, is a lengthy and rather complicated Act passed with the object of making provision for the improvement and expansion of towns in the United Provinces. The Act follows the main lines of the Calcutta and Bombay City Improvement Trust Acts with certain modifications introduced from the Colombo Housing and Town Improvement Ordinance, 1915.

The other United Provinces Acts passed in 1919 are of no general interest.

8. CENTRAL PROVINCES.

Acts passed—4.

Canals.—The Central Provinces Canal Management Act, 1919, gives power to charge a water-rate in the case of land adjacent to a canal which derives benefit from percolation therefrom, and also to charge a water-rate where works executed at Government expense have increased the area irrigated from a private irrigation work in the proximity of the Government work.

Food Adulteration.—The Central Provinces Prevention of Adulteration Act, 1919, is yet another Act similar to those passed on the same subject by other local legislatures.

The remaining Acts passed by the Central Provinces Legislature in 1919 are of no general interest.

9. PUNJAB.

Acts passed—7.

Simla House Accommodation.—The Simla House Amendment Act, 1919, amends the principal Act on the same subject which was passed in 1918, and introduces certain provisions based on the Bombay Rent Act, and also confers certain additional powers on the House Accommodation Committee which was constituted under the main Act. Lodgers and paying guests are excluded from the operation of the Act.

Food Adulteration.—The Punjab Adulteration of Food Act, 1919 (No. 6 of 1919), is yet another Act dealing with this subject, similar to those which have been passed by other local legislatures.

Similarly, the Punjab Primary Education Act, 1919, deals with that subject which was a favourite one with local legislatures during the year under review.

10. BURMA.

Acts passed—2.

Habitual Offenders.—The Burma Habitual Offenders Restriction Act, 1919, is a further example of the infringement of the general law contained in the Criminal Procedure Code which was referred to in the *Review of Legislation* for 1918 in dealing with a similar Act passed in the Punjab. The provisions of the Act, speaking generally, follow the lines of the Restriction of Habitual Offenders (Punjab) Act, 1918.

II. REGULATIONS UNDER S. 71 OF THE GOVERNMENT OF INDIA ACT, 1915.

Regulations made—5.

The Regulations made in 1919 affect the local law in force in the North-West Frontier Province, British Baluchistan, the Hazara District, and Aden. Two of the Regulations were necessitated by the elevation of the Chief Court of the Punjab to the status of a High Court. Otherwise they are of purely local interest.

12. ORDINANCES UNDER S. 72 OF THE GOVERNMENT OF INDIA ACT, 1915.

Ordinances made—7.

Ordinances 1 to 6 of the year 1919 were necessitated by and arose out of the disorders that broke out in various parts of India, and more particularly in the Punjab in the spring of that year. Ordinance 1 of 1919, the Martial Law Ordinance, 1919, which came into operation at midnight between April 15 and 16, modified the provisions of the Bengal State Offences Regulation, 1804, which had been applied to the Punjab, by enacting that trials should be held under that Ordinance by a commission instead of by courts martial as the Regulation itself provides. The commission was to be composed of persons who had held office as Sessions Judges or Additional Sessions Judges for a period of not less than three years or of persons qualified under the Government of India Act for appointment as Judges of a High Court. Various extensions of this Ordinance were passed, including Ordinance No. 4 of 1919, the Martial Law (Further Extension) Ordinance, 1919, which extended the power to try by a commission appointed under the original Ordinance persons charged with offences committed on or after March 30, 1919. In the case of *Bugga v. King-Emperor*, which was heard before the Judicial Committee of the Privy Council on February 20, 1920, the validity of this Ordinance was challenged, but, in so far as the applicants were concerned, unsuccessfully.

The remaining Ordinance made in 1919, the Rouble Note Ordinance 1919, was necessitated by the fear of Bolshevik currency being introduced into India in a manner likely to cause financial and political trouble. The Ordinance prohibits the possession of rouble notes after the expiration of six weeks from the date of its commencement, and requires persons possessing rouble notes to deposit them in a treasury within that time or to export them to some place outside India.

VI. EASTERN COLONIES.

I. CEYLON.

[Contributed by L. MAARTENSZ, ESQ., *Acting District Judge, Colombo.*]

Ordinances passed—32.

Kandyan Marriages.—Ordinance No. 1 is an amendment of the Kandyan marriage ordinance of 1870. S. 4 provides that, in making an order for the dissolution of a marriage, the provincial or assistant provincial Registrar (1) shall, if the parties to such dissolution have agreed upon any compensation to be paid to either or both, enter the terms of such agreement in the register of dissolutions if the parties request him to make such entry; (2) may by an entry to that effect in the said register order that the husband shall pay a certain sum of money periodically, or make other provision for the maintenance of his wife and children.

An appeal lies to the Governor from any order under sub-s. 2.

An entry or order made under sub-ss. 1 and 2 has the effect of an order or decree of a competent Court.

Drainage.—Municipal Ordinance No. 2 amends the Municipal Councils Ordinance, 1910, so as to make better provision for the effective draining of towns. The relevant sections of the principal ordinance are repealed and a new part, XIa, is added to the principal ordinance.

Alien Enemy.—Ordinance No. 5 vests in the custodian of enemy property every trade mark and any goodwill existing in connection therewith which is the property of an enemy person, firm, or company not having a fixed place of business in the colony.

Estate Duties.—The only duty which was payable upon the death of a person was probate duty, under s. 68 of the "Stamp Ordinance, 1909." Ordinance No. 8 is based on the English Finance Act of 1894, and embodies the principle that all property which passes on the death of a person shall pay a duty called the estate duty.

Former Enemy Aliens.—Ordinance No. 19 was passed so as to bring the Colony into line with Imperial legislation on the subject of the exclusion of former enemy aliens.

Vexatious Actions.—Hitherto there was nothing to prevent a person commencing action after action against a defendant, even if there was no cause of action. Ordinance No. 20 empowers the Supreme Court, on the application of the Attorney-General, to prohibit any person who has habitually and persistently instituted vexatious legal proceedings against the same persons or different persons, from instituting civil legal proceedings in any Court without the leave of the Supreme Court.

Public Morals.—Ordinance No. 21 is entitled, The Criminal Law Amendment Ordinance, Section 2 makes soliciting and immoral conduct in public places an offence. It deals with persons living on the earnings of prostitutes on the same lines as the Vagrancy Act of 1898 as amended by s. 7 of the Criminal Law Amendment Act of 1912. S. 4 increases the penalty for keeping or using premises for the purposes of a brothel.

S. 6 deals with the procuration of girls and women under twenty. It is framed on s. 2 of the English Criminal Law Amendment Act, 1885, with the following modifications :

(a) It limits the offence of ordinary procuration to procuration with a view to removal of the girl or woman for the purpose of prostitution outside the colony.

(b) It fixes the age of the women at twenty instead of twenty-one, as in the English law, in accordance with the condition imposed by "The White Slave Convention, 1910."

The majority of the ordinances passed were amending ordinances of no great importance.

2. MAURITIUS.

[Contributed by E. KOENIG, ESQ.]

Stamps.—The Stamp Laws (Amendment) Ordinance 1919 (No. 9), re-enacts item 17 of s. vi. of Schedule D to Ordinance No. 19 of 1877. This item, which provides a stamp duty of five cents of a rupee on foreign bills of exchange, drawn in and payable out of the colony on demand, had been repealed through oversight by article 17 of the Stamp Ordinance, 1898.

Sugar.—The Mauritius Sugar Syndicate Ordinance, 1919 (No. 10), legalises the syndicate formed for the purpose of selling the sugars of the 1919–20 crop. Article 5 lays down the conditions under which other planters may join the Syndicate.

Article 6 provides a special privilege, ranking immediately after the privilege of the Mauritius Railways, for conveyance of goods by rail, in favour of all persons, companies, bankers, or others lending money to the Syndicate, and extending over all the sugars deposited in the docks in the name of the Syndicate. This privilege need not be inscribed in the Mortgage Office. The Syndicate is also empowered to pledge part of the sugars registered in the name of the Syndicate without the consent of the owners of such sugars. Article 7 enacts that the creditors of the planters forming part of the Syndicate have no right to intervene in the transactions of the Syndicate, and have no right on the sugars of those planters. They are not entitled to seize such sugars, but may attach in the hands of the Syndicate such sums as may accrue to their debtors. Article 8 provides that all sales of sugar made by the Syndicate, as well as the transactions referred to in Article 6, shall be free from stamp duty, with the exception of the stamp duty on receipt, and shall be exempt from registration.

Currency.—The Paper Currency (Amendment) Ordinance, 1919 (No. 12), allows the Board of Commissioners of Currency to issue notes of the value of one rupee. Article 3 enables the Governor in Executive Council to dispense, during certain fixed periods, with the necessity of giving silver rupees of India in exchange for notes lawfully issued by the said Board of Commissioners.

Silver.—The Silver Exportation Prohibition Ordinance, 1919 (No. 13), reproduces the provision of a regulation made under the Order in Council of March 21, 1916, respecting the export of silver, in bullion or coin, and which will come into force when the said Order in Council ceases to be in force.

Enemy Aliens.—The Former Enemy Aliens Ordinance, 1919 (No. 15), provides that a former enemy alien shall be required to have a permit signed by the Colonial Secretary before he can enter the colony or any of its dependencies.

Education.—The Education Consolidation Ordinance, 1919 (No. 19), carries into effect the recommendation of the Royal College Inquiry Commission, 1917–18, viz. that the supervision exercised by the Director of Public Instruction over the Royal College should be terminated, and codifies the law on education.

Deportations.—The Deportation Ordinance, 1919 (No. 26), provides for the deportation of former enemy aliens whenever the Governor deems such a course conducive to the public good.

3. STRAITS SETTLEMENTS.

[Contributed by A. DE MELLO, Esq.]

Of the forty-two Ordinances passed during the year, the majority either deal with special after-war conditions, or are of a purely local or amending nature. Apart from these, the more important Ordinances are those relating to:

Criminal Law (No. 25).—An amending Ordinance prescribes, in cases of robbery and gang-robbery, where the offender is armed with or uses any deadly weapon or causes grievous hurt, or attempts to to cause death or grievous hurt to any person, the punishment of flogging with a cat-of-nine-tails, in addition to the imprisonment of not less than seven years, already prescribed by ss. 397–8 of the Penal Code (Ordinance No. 4 of 1871).

Mosquitoes, Destruction of.—Experts on the treatment of malaria have pointed out that, for any general anti-mosquito campaign, the insects and their breeding-places may be roughly classified into three groups:

(1) The malaria-carrying anophelines, which breed in the clear water of springs and hill streams, and in certain swamps;

(2) The mosquitoes which breed in artificial containers of water, such as cans, tubs, flower-vases, gutters, holes in trees, flowers, etc. This group comprises *Stegomyia fasciata*, the carrier of yellow fever, and the opening of the Panama Canal caused apprehension of grave danger of yellow fever reaching Asia from America.

(3) The mosquitoes which live in swamps, pools, and cess-pits. This group contains *Culex sitiens*, which abounds in this part of the world. Though much useful work had so far been done in dealing with the first of the above groups, the swamp-bred anophelines (*Anopheles Ludlowi*) had not yet been dealt with, and scientists are of opinion that all the three groups can be controlled, if not exterminated, by systematic action, particularly by landowners. That is the aim of No. 32, which is based upon Enactment No. 13 of 1917 of the Federated Malay States (*Review of Legislation*, 1918, p. 142) and Ordinances Nos. 16 of 1920 and 20 of 1911, of Southern Nigeria.

Food Production. No. 19 was the outcome of a desire on the part of the Government to maintain or increase the food supply of the colony in view of a formidable shortage in rice (the staple food of the indigenous inhabitants) being anticipated for some years ahead.

The Ordinance provides for the appointment of a Director of Food Production and as many Deputy Directors as may be necessary (s. 3); and requires all owners of land alienated for or subject to a condition for the cultivation of wet rice to cultivate their land once every year (s. 5).

It provides that notices shall be issued to all owners of land suitable for the cultivation of wet rice, prescribing the time for clearing and planting their land (s. 6). If the notices are not obeyed the owners are liable to a fine of \$100, and, in addition, the land may be taken over and cultivated at the expense of the Government, or it may be handed over to any other person to cultivate (s. 7). If the Government cultivates, labour may be requisitioned from neighbouring employers not exceeding ten per centum of their total force (s. 8); any person who is unemployed may also be commandeered at fixed wages (s. 9).

If any land is allowed to remain uncultivated for three successive seasons it is liable to forfeiture (s. 11).

The Ordinance also provides for the cultivation of foodstuffs generally (ss. 13 to 20).

Any owner may be required to cultivate a portion of his land with foodstuffs (s. 14). If the order is not obeyed, the owner of the land is liable to be prohibited from employing any labourers on his land. Land-owners may be required to furnish certain particulars as to the area of their land under cultivation, the nature of the cultivation, and the number of their labour force (s. 15). As in the case of rice, uncultivated land may be taken over and cultivated at the expense of the Government, with similar powers to requisition labour.

The Governor is authorised (s. 19), when he considers it necessary in the public interests, to requisition all able-bodied labourers to work at cultivation or harvesting of foodstuffs.

Provision is made for the cultivation of foodstuffs in municipal areas (s. 21) and for vegetable gardens and grazing grounds on Crown land (ss. 22-23).

Power is given to the Director, with regard to *padi* (rice in the husk) grown in the colony, to fix the price at which he will purchase, either for one season's crop or for any term not exceeding five years (s. 24). The Director may also make advances on the security of crops (s. 25).

The Governor may prohibit the use of rice or any class of rice for the making of alcoholic liquors.

Arbitration Boards are appointed to decide certain applications and appeals (ss. 27 and 28).

Rewards may be given for diligence and energy in cultivating foodstuffs (s. 30); and, on the other hand, penalties are prescribed for offences against the Ordinance or of any rules made under it.

Naturalisation.—No. 24 amends the local Naturalisation Act which has been in force for over fifty years (since 1867) by giving power to the Governor to revoke local certificates of naturalisation, similar to the power given by the Imperial Act of 1918 (8 and 9 Geo. V. c. 38) to any of His Majesty's Secretaries of State to revoke certificates of Imperial Naturalisation.

Passengers Restriction.—No. 14 extends the provisions of the old Indian Act, No. XLI of 1850, and the Exclusion Ordinance of 1906, with the object of preventing the classes of persons mentioned in s. 9 from entering into or staying in the colony. To achieve this object it is provided that:

(a) Every ship arriving in the colony shall exhibit a special signal (s. 3);

(b) No person, without the permission of the examining officer, shall leave such ship until it has been examined (s. 4);

(c) The master of the ship shall furnish the examining officer with a complete list of passengers, and produce the passengers for inspection and interrogation by the examining officer (s. 6) ;

(d) If the examining officer finds, on inquiry, that any passenger belongs to any of the classes mentioned in s. 9, he may prevent the passenger from landing, or may detain him on shore until he can be returned to his port of embarkation (s. 9).

4. FEDERATED MALAY STATES.

[Contributed by A. DE MELLO, ESQ.]

Of the thirty-two Enactments passed during the year, hardly any call for any particular reference or comment, except the one relating to :

Usurious Loans (No. 12).—This relieves borrowers from excessively high rates of interest in matters coming within the cognisance of a Court or a Collector. It is based on the analogous Usurious Loans Act, 1918, of India (see *Review of Legislation*, 1918) and much of it reproduces in substance provisions contained in s. 1 of the Moneylenders Act, 1900, of the United Kingdom (63 and 64 Vict. c. 51). The measure will in some measure check the rapacity of the *Chitties* (the Indian moneylenders) who abound in these parts, and it is to be hoped that the legislature of the Straits Settlements will soon consider the advisability of enacting a similar law.

VII. WEST AFRICA.

1. GAMBIA.

[Contributed by T. J. TURBETT, ESQ.]

Sixteen Ordinances were passed during the year. Of these Ordinances nine were of an amending nature—the remaining seven were of an ordinary nature, and do not appear to call for any particular comment. A short report on each Ordinance is appended below.

Legal Documents.—No. 1 was enacted in order to impose restrictions on the drafting and preparation for reward of certain legal documents by unqualified persons. Legislation of a similar nature had been passed some years previously in both the Gold Coast and Nigeria. The chief aim of the Ordinance is to protect the general public and also the legal profession from unqualified persons who have made a remunerative living in the past by drafting legal documents for illiterate persons. Power already existed under Order 54 of the Supreme Court Rules to deal with such persons by means of attachment and committal for contempt, but this procedure was deemed to be too elaborate and cumbersome as compared with the summary procedure for which the Ordinance under review provides. S. 3 of the Ordinance provides that every person who draws or prepares any legal instrument shall endorse his name thereon or be liable to a fine. Powers of Attorney and Wills are not within the meaning of the word “instrument.” S. 4 prohibits unqualified persons from drawing instruments, and provides a heavy penalty.

By Section 5 all agreements to pay fees to such persons are void.

Power is also taken to except any class of instrument from the provisions of the Ordinance by Order in Council.

Capital Punishment.—No. 2 repeals the Capital Sentence and Punishment Ordinance, 1918, which was passed in order to regulate the passing and execution of capital sentences. The only material alteration is the deletion of all mention of executions in public. Otherwise with the exception of the recasting of the provisions of ss. 4, 5, and 6, the repealed Ordinance has been re-enacted.

Currency.—No. 3 repeals the Currency Notes Ordinance, 1918, but re-enacts certain of its provisions and provides for the prohibition of the discounting of notes and the giving of a premium for silver. The repealed Ordinance was originally modelled on Sierra Leone Ordinance No. 18 of 1918, but certain provisions of the Ordinances passed in the Gold Coast and Nigeria on the same subject have now been adopted in the Ordinance under review. The general powers of Courts of Summary Jurisdiction have also been curtailed, as originally somewhat unlimited powers had been vested in them.

Interpretation of Ordinances.—No. 4 was enacted merely to correct two conflicting enactments contained in different Ordinances respecting the application of laws to the Protectorate. All Ordinances passed in the Colony will automatically extend to the Protectorate, unless otherwise provided by the Ordinance itself and also as long as they are consistent with the Protectorate system.

Registration.—No. 5 amends the Principal Ordinance on the subject in order to allow births in the Protectorate to be registered in Bathurst and to validate certain registrations of this class which have been made in the past.

Customs.—No. 6 repeals and replaces s. 45 of the principal Customs Ordinance, which dealt with a long list of articles the importation of which was absolutely prohibited. The list of these articles has now been revised and added to by the Ordinance under report, the most important addition being the restriction placed on the importation of spirits.

Administration.—No. 7 serves to amend the Protectorate Ordinance in several particulars with a view chiefly to facilitate the administration thereof. Power has been given to the Governor to sub-divide the Provinces into districts and districts into sub-districts. The Governor has also been empowered to suspend chiefs and appoint others on probation by order under his hand.

Friendly Societies.—No. 8 serves simply to revise the scale of fees payable under the Principal Ordinance by bringing them more into harmony with the standard scale prevailing in similar matters, and provides for the direct payment of all fees into the Colonial Revenue, and not to certain officials.

Frontier Force.—No. 9 was passed in order to abolish the anomaly by which native sergeants when promoted to sergeant-majors were liable to lose in respect of their personal emoluments.

Termination of the War.—No. 10 makes provision for determining the date of the termination of the world war, and was based entirely on the provisions of the Act of the Imperial Parliament which was passed in November 1918.

Firearms, Ammunition, and Gunpowder.—No. 12 deals with the question of licences for firearms and makes the law more stringent. The

Travelling Commissioners have also been allowed a discretion as regards providing natives with arms of precision for the destruction of dangerous wild beasts and protection of their crops.

Intestate Estates.—No. 13 abolishes the post of Curator's Agent, and makes the Curator directly responsible for the work of his department. The various sections of the Principal Ordinance in which this officer figured have therefore had to be amended. The Ordinance also now compels the Curator to obtain a proper valuation from either the Land Officer or Colonial Engineer before real estate is put up for sale. The Curator is also empowered by s. 9 to administer estates under £10 in value without obtaining an order of the court. S. 13 compels the Curator to report to the Colonial Secretary the cause of delay in the administration of an estate, where the winding up is not completed within four months of the estate being taken over.

Enemy Aliens.—No. 14 prohibits the landing in the Colony of a former enemy alien, who has been defined as any person who is a citizen or subject of a State with which His Majesty was at war at any time during the year 1918. The Ordinance also provides for the deportation of a former enemy alien who has contravened the provisions of the Ordinance. The onus of proof is also placed on the accused.

Political Offenders.—The object of No. 15 was to provide for the deportation from the colony of Musa Molloh, late King of Fulladu. Further provision was also made for his detention while remaining in the Colony.

2. GOLD COAST.

[Contributed by R. W. H. WILKINSON, ESQ.]

Twenty-two Ordinances were passed by the Legislative Council during the year under review, of which the following are the principal enactments of general interest :

Non-Ferrous Metal Industry.—The provisions of No. 2 correspond, *mutatis mutandis*, with those of the statute of the Imperial Parliament shortly entitled The Non-Ferrous Metal Industry Act, 1918.

Termination of the War.—No. 3 makes a local provision following that made by the statute of the Imperial Parliament shortly entitled The Termination of the Present War (Definition) Act, 1918.

Cocoa Export Duty.—No. 7 raises the export duty on cocoa to one halfpenny a pound or part thereof. But any cocoa certified on or before July 12, 1919, by the competent Customs authority to have been at a port of shipment or (in the case of exportation overland) at a lawful place of exportation in the Colony and in the possession of the exporter on or before such date is exempted from the incidence of the higher duty.

Former Enemy Aliens.—The duration of the operation of No. 8 is limited to three years. S. 3 provides that no former enemy alien shall enter the Colony unless he shall first have obtained an immigration permit signed by the Colonial Secretary authorising his entry, and a form of such permit is provided in the Schedule to the Ordinance. Power is confided to the Colonial Secretary to attach conditions to an immigration permit, and to vary the same, as also to cancel immigration permits if such course should appear to him expedient. S. 9 relates to offences under the Ordinance and to the mode in which such offences are to

be tried and punished. S. 10 makes provision for the deportation of former enemy aliens adjudged guilty of offences under the Ordinance.

Palm Kernels Export Duty.—The purport of No. 10, the duration of the operation of which is limited to five years, is to impose a duty of two pounds per ton on all palm kernels exported from the colony to places outside the British Empire. S. 3 lays down the procedure whereunder effect is to be given to the differential incidence of the duty. Legislation of similar tenor has been enacted elsewhere in British West Africa.

Diamond Export Duty.—The purport of No. 12 is to make provision for the levy of an export duty of 5 per cent. on the value of rough and uncut diamonds which have been won from the earth within the Gold Coast Colony; and in the preparation of this Ordinance reference has been made to the corresponding Act of the Union Parliament of South Africa, namely, the Diamond Export Duty Act, 1917, No. 27 of 1917. Owing, however, to local conditions, some departures have had to be made from the provisions of that Act.

S. 3 provides for assessment of the value of the exported diamonds by an assessor or assessors approved for the purpose by the Secretary of State; and sub-s. 4 provides for reference to arbitration in the case of the exporter being dissatisfied with the assessment made by the aforesaid assessor or assessors. The value on which the duty is payable is the selling price of the diamond on the London market on the date of the assessment of such value under sub-s. 3.

Ss. 4 and 5 prescribe the procedure to be adopted in registering diamonds for export and for their exportation through the medium of the registered post. In the first instance it is intended that the registration for export and the posting of diamonds shall take place only at Accra; but provision is made for an extension of facilities in this regard to other places as occasion may require.

Under s. 6 the exporter is required to enter into a bond to secure due and punctual payment of the duty when the amount payable on that account has been finally ascertained.

S. 7 imposes a limitation of the export of diamonds into or through Ashanti, the object of this provision being to preclude evasion of the duty by sending diamonds abroad through Ashanti.

S. 8 declares what are offences under the Ordinance, and prescribes penalties therefor.

Criminal Code.—By No. 13 the maximum number of strokes which can by law be inflicted on a juvenile offender under sixteen years of age is reduced from twenty strokes to twelve strokes.

Daylight Saving.—The Determination of the Time Ordinance, 1919, No. 18, is to advance the time observed locally by the space of twenty minutes during the last four months of each year, the object in view being to extend during those months the period of daylight-time available for evening recreation after office hours.

Vaccination.—The purport of No. 20 is to repeal the Vaccination Ordinance, 1888, and to substitute therefor an Ordinance more modern in form and better adapted to the present needs of the Gold Coast Colony.

A leading feature of the Ordinance is its great elasticity, which will enable it to be administered as circumstances require. In s. 3 legal recognition is given to the status and functions of native assistant public vaccinators who are not registered medical practitioners. Such officers will have the powers and will perform the duties under the Ordinance

which are assigned to them by regulations made under s. 6. Under the provisions of s. 4 vaccination will be free; though power is reserved to the Governor, under the limitations expressed in s. 13, to provide for the payment of fees to public vaccinators. Under s. 5 the Governor in Council is empowered to make orders with respect to the compulsory vaccination both of children and of adults, and to limit the operation of such orders as he may see fit. S. 11 enjoins employers of foreign labour to notify the Medical Officer of Health for the place of the entry of the labourers into the colony before the disembarkation or entry of the labourers, for the purpose of their inspection and, if necessary, vaccination.

Under s. 12 a person who has been successfully vaccinated, or who is shown to be insusceptible of successful vaccination, is entitled to an official certificate certifying that fact. S. 14 declares the practice of inoculation to be unlawful, and prescribes a penalty for persons concerned in such practice.

Finance.—No. 21 authorises the flotation of a Gold Coast loan amounting to £6,000,000, to be expended on public works.

(i) ASHANTI.

During the year 1919 fourteen Ordinances were enacted with respect to Ashanti.

Administration.—By No. 6 the Ordinances of the Gold Coast Colony applied to Ashanti are exhibited in a schedule added to the principal Ordinance; and the third column of the schedule disintegrates and individualises the compendious provision set forth in the first paragraph to the former s. 26, thus making the modifications in application more easily ascertainable and intelligible.

Judicature.—No. 9 constitutes as a permanency the office of a circuit judge in Ashanti. Under this Ordinance the Chief Commissioner is relieved of his criminal jurisdiction in capital cases, while retaining, however, exclusive jurisdiction in civil causes and matters to or in which native customary law is principally and substantially applicable.

The remaining Ordinances are not such as to call for special comment.

(ii) NORTHERN TERRITORIES.

During the year 1919 eleven Ordinances were enacted with respect to the Northern Territories.

Nos. 3 and 6 are similar to Nos. 6 and 9 of Ashanti respectively, and the remainder do not call for special comment.

3. NIGERIA.

[Contributed by E. GARDINER SMITH, ESQ., *Crown Prosecutor.*]

Ordinances passed—28.

Currency.—The legislation of the year reflects the shortage of silver, and the difficulty of getting natives to accept West African¹ or Nigerian (No. 22 of 1918) currency notes. Early in the year discounting of the notes was made an offence (No. 1, Currency Offences). One prosecution under this Ordinance resulted in a fine of £7,700. Towards the close

¹ See *Review of Legislation*, 1916, p. 223.

of the year it was found necessary to take the drastic step of compelling vendors in shops, markets, or public places, within such parts of the Protectorate as might be prescribed, to deliver goods upon tender of payment in currency notes (No. 25, Currency Offences (Amendment), No. 2). The Governor was also empowered to suspend the obligation upon the West African Currency Board to redeem their notes in coin (No. 6, Currency Notes (Amendment)). Under this Ordinance payment in cash was deferred thrice within the year, by Orders in Council Nos. 6, 15, and 26.

In the south-east of Nigeria the natives have been in the habit of using a currency of horseshoe-shaped pieces of metal, called manillas. The first manillas are believed to have been bolts from ships' decks, bent and flattened at the ends. Manillas were recognised as legal tender in native markets by Proclamation No. 14 of 1902 of the Protectorate of Southern Nigeria, and by c. 65 of Laws of the Colony and Protectorate of Southern Nigeria. With a view to minimise their circulation, and encourage the use of legal currency, the Governor is now empowered by Order in Council to prohibit their use within any specified part of the Protectorate.

Courts.—No. 4 (Police (Amendment)) takes away the right of police officers to conduct prosecutions in Provincial Courts.¹ This was considered advisable, as accused persons cannot be defended by counsel (No. 7 of 1914, s. 32).

Lunacy.—It was considered advisable that native authorities should not be allowed to confine lunatics subject to their jurisdiction otherwise than in properly established asylums, subject to the supervision of medical officers. No. 9 (Lunacy (Amendment)) provides for the establishment of such asylums, in which the patients can be properly cared for and attended.

Local Government.—The Lagos Municipal Board was established in 1909. In 1917 it became the Town Council.² By No. 13 of 1919 (Lagos Township), the Government secured the imposition of a new rate (for lighting, roads, and drainage) at the price of the introduction of three elected members.

Emergency and Reconstruction Legislation.—The consequences of the war are seen in various ordinances. The principle of the Non-Ferrous Metal Industry Act, 1918, has been applied to Nigeria by No. 5 (Non-Ferrous Metal Industry). The effect is to exclude "enemies" from the tin-mining industry of Nigeria.

The policy suggested by the Committee on Edible and Oil-producing Nuts and Seeds for retaining as far as possible the palm kernel crushing industry in British hands, has been given effect to in No. 27 (Palm Kernels (Export Duty), No. 2). An export duty of £2 per ton is imposed on palm kernels for a period of five years. When the kernels are being exported to a port within the Empire, a bond may be given in lieu of payment of duty. On proof that the kernels have been duly landed at a British port, or have been lost at sea on their way to such port, the bond is to be cancelled.

The Governor is empowered to close schools, whether assisted schools or not, if such closing is in the interest of the pupils or of the community, e.g. if the teaching is seditious (No. 8, Education).

¹ See *Review of Legislation*, 1914, p. 174.

² *Ibid.* 1917, p. 155.

No. 11 (Public Custodian (Amendment)) amends No. 12 of 1917,¹ and applies to sales of immovable property by the Public Custodian certain principles which attach to sales by the Receiver of Enemy Property under No. 2 of 1917 (Enemy Property (Disposal)),² viz. (a) extinguishment of adverse interests, to enable a purchaser to obtain a clear title; and (b) the compensation out of the purchase money of persons establishing a claim to any interest in the property sold.

No. 16 (Trading with Enemy) follows the Trading with the Enemy (Amendment) Act, 1918, in excluding "enemy" banks from Nigeria for a period of five years from the end of the war.

No. 18 (Interpretation (Amendment)) gives effect to the new imperial system of reckoning time. Nigeria "Standard Time" is now sixty minutes ahead of Greenwich.

No. 19 (Former Enemy Aliens (Restriction on Immigration)) prohibits "former enemy aliens" from entering Nigeria "by land or sea" for a period of three years, without a permit.

The war has done what propaganda failed to do, and the importation of trade spirits and "injurious spirits" (e.g. absinthe), which stopped during the war, is now prohibited (No. 26, Liquor (Amendment)).

VIII. EAST AFRICA.

ZANZIBAR PROTECTORATE.

[Contributed by J. E. R. STEPHENS, ESQ., *Senior Magistrate of the Zanzibar Protectorate.*]

During the year 1919 nineteen Decrees were passed, apart from Emergency Legislation. Sixteen out of the nineteen were amending Decrees. The Registration of Documents Decree No. 19 of 1919 repealed the Registration of Documents Decree, 1908, and the Registration of Documents (Amendment) Decrees Nos. 3 and 15 of 1915, and the Registration of Documents (Amendment) Decree, 1918.

Indemnity.—The General Indemnity Decree, 1919, indemnified military, naval, and other persons for acts done *bona fide* for the suppression of hostilities on the establishment and maintenance of good order and government in the Protectorate from August 4, 1914, to the date of the Decree (April 7, 1919).

Registration of Documents.—The Registration of Documents Decree, 1919, provides that no document executed after the issue of this Decree purporting or operating to declare, assign, limit, or extinguish any rights, title, or interest, whether vested or contingent to, in, or over immovable property in the Sultan's dominions, except such documents as are of a testamentary nature, shall affect any immovable property comprised therein, or be received as evidence in any civil proceedings of any transaction affecting that property unless it has been registered. Every document the registration whereof is compulsory must be registered within two months after its execution, unless executed out of Zanzibar, when it must be registered within two months of its arrival in Zanzibar. If the document produced for registration is not in English, Arabic, Hindustani, Gujerati, or Swahili language, it must be accompanied by

¹ See *Review of Legislation*, 1917, p. 153.

² *Ibid.* p. 152.

translation into one of those languages, certified to the satisfaction of the Registrar, and also by a true copy of the original document.

Wild Animals.—The Wild Animals' Protection Decree No. 7 prohibits the killing or wounding or offering for sale the following animals: (1) the Colobus monkey, (2) the large elephant shrew, (3) the small elephant shrew, (4) Duiker antelope, (5) squirrel, (6) the tree coney, (7) boleogale. The British Resident may, however, give permission to kill these wild animals for scientific and other purposes. A magistrate, unless he has reason to the contrary, upon any conviction or a complaint made or information laid shall award the complainant or informer the half of any penalty imposed upon the offender.

Law Amendment.—The Law Amendment Decree No. 9 of 1919 amends the provisions of certain Decrees. By s. 2 (a) it amends the provisions of s. 153 of the Criminal Procedure Decrees, 1917. Section 153 enacts that if, when a magistrate takes cognisance of an offence under sub-s. (1), clause (c) of s. 152, the accused, before any evidence is taken, objects to being tried by such magistrate, the case shall, instead of being tried by such magistrate, be committed to the High Court, or transferred to another magistrate. S. 2 (a) of the Decrees of 1919 provides that no such objection can be made when the magistrate who takes cognisance of the case is a First Class Magistrate in the island of Pemba. The reason for this provision as regards the island of Pemba is that there is only one First Class Magistrate in the island, who acts as Magistrate of the British Criminal Court of the Sultan's Criminal Court and as Judge of the British Civil and the Sultan's Civil Court with unlimited jurisdiction.

S. 409 of the Criminal Procedure Decrees, 1917, enacts that whenever a person is convicted of an offence attended by criminal force, and it appears to the Court that by such force any person has been dispossessed of any immovable property, the Court may, if it thinks fit, order such person to be restored to the possession of the same. No such order shall prejudice any rights or interest to or in such immovable property which any person may be able to establish in a civil suit. S. 2 of the Law Amendment Decree of 1919 further provides that whenever a magistrate is satisfied from a police report or other information that a dispute likely to cause a breach of the peace exists concerning any immovable property or the boundaries thereof, or receives a complaint from any person that his interest in any immovable property is being or likely to be disturbed by any other person not authorised by law, he shall make an order in writing, requiring the parties concerned to attend his court in person or by pleading within a time to be fixed by such magistrate. The magistrate shall then, without giving any decision upon the claims of any such parties to a right in regard to the subject of dispute, hear the parties, receive the evidence produced by them respectively, examine any documents they may produce, and take such further evidence (if any) as he thinks necessary. He shall then in his discretion put either party in possession of the subject-matter of the inquiry or may put any third party or parties in possession, making such order for remuneration of such third party as he deems fit. Such order for possession shall have the effect of prohibiting any other party or parties concerned in the inquiry from interfering with the subject-matter of the inquiry until revocation of the order by the magistrate who passed it or his successor, or until the claims of the parties shall have been determined by a Civil Court. If, however, the magistrate considers the circum-

stances of the case justify it, he may, at any time after the issue of his order for attendance, put any third party in possession of the subject-matter of inquiry pending his decision. Nothing in this section shall preclude any party so required to attend, or any other person interested from showing that no such dispute as aforesaid exists or has existed and no disturbance as complained of has occurred or has been threatened, and in such case the magistrate shall revoke his order. When the magistrate places a third party in possession of the subject-matter of his inquiry, and where none of the parties claiming to be interested brings a civil action for the determination of his rights within a reasonable time, the magistrate shall revoke the order for possession unless he sees good and sufficient reason for extending it, when he may extend it for any period he thinks fit.

Estate Duty.—The Estate Duty Decree, 1919, provides for duties on estates of deceased persons. There is a graduated scale of rates varying from 1 per cent. in the case of estates exceeding Rs. 50, but not exceeding Rs. 500, up to 10 per cent. in case of estates exceeding Rs. 1,200,000.

IX. WEST INDIES.

I. THE BAHAMAS.

[Contributed by the HON. HARCOURT MALCOLM, O.B.E., K.C., *Speaker*.]

Acts passed—32.

Agriculture.—C. 1 revives the Act of 1913, which, inadvertently, expired by effluxion of time and validates all acts done and expenditures after its expiry.

Public Roads.—The Public Roads Act, 1919 (c. 2), supplies much-needed legislation dealing with public roads in New Providence. The minimum width of roads is twenty feet. The Board in control of roads is authorised to enter on adjoining land to get material necessary to repair roads, for which compensation is to be paid. Owners of land adjoining a road, if required by the Board, must cut hedges, etc., to preserve the amenities of country roads. An owner of land adjoining such roads cannot remove trees within twenty-five feet of such roads. Sisal may not be planted on unenclosed land within seven feet of a road.

Tariff.—The Tariff Act, 1919 (c. 3), regulates all import and export duties of Customs and is a consolidation of all previous enactments from 1914 to 1918 relating to such matters.

Illiterates' Protection.—The Illiterates' Protection Act, 1919 (c. 4), provides protection for an illiterate, i.e. "a person who is unable to write his name," by requiring that the execution of any document by an illiterate shall only be valid if it takes place in the presence of an official attester.

Elections.—The Election Act, 1919 (c. 5), is the first consolidation of the parliamentary election laws since 1885. The only new provision is the requirement of a deposit of £50 by a candidate, who forfeits the deposit if he does not poll one-sixth of the total number of votes polled at the election. The vote is still restricted to males. The qualifications of electors are such as to amount practically to manhood suffrage. Election petitions are heard and determined by the House of Assembly. A

financial qualification of £200 is required for membership. The demise of the Crown does not cause a dissolution.

The Registration of Voters' Act, 1919 (c. 6), is a consolidation of all Acts dealing with Parliamentary voters passed between 1885 and 1919.

House of Assembly Officers.—The House of Assembly Officers Act, 1919 (c. 7), consolidates all Acts dealing with the officers of the House.

Steamship Subsidies.—The Hotel and Mail, Passenger and Freight Service Act, 1919 (c. 8), provides £7,250 annually for such a service between Nassau and Florida, U.S.A.

Development Board.—The Development Board Act, 1919 (c. 9), creates a representative Board and clothes it with wide discretionary powers to take whatever steps may seem necessary for the development of the Colony especially as a tourist resort. Funds are voted to the Board annually in the Appropriation Act.

Naturalisation.—The Naturalisation Act, 1919 (c. 10), based on the Imperial Act, 1914, (4 and 5 Geo. V. c. 17), gives the Governor in Council power to revoke a certificate of naturalisation obtained under the Naturalisation Act, 1888, where (a) it has been improperly obtained, or (b) the person to whom it has been granted has shown himself by act or speech to be disaffected or disloyal to His Majesty. Other causes for revocation are: (1) trading with the enemy; (2) imprisonment for twelve months or fined £100 within five years; (3) bad character at time of grant; (4) resident out of British Empire for seven years; and (5) remains a subject to enemy State. Procedure is provided for the holding of an inquiry in certain cases before the certificate is revoked. No grant of a certificate can be made for ten years to any subject of an enemy country during the late war.

Probation of Offenders.—The Probation of Offenders Act, 1919 (c. 11), gives wide powers to summary courts as well as the Supreme Court to release offenders on probation under supervision and subject to recognisances. It is based on the Imperial Act (7 Ed. VII, c. 17).

Music and Dancing Licence.—The Music and Dancing Licence Act, 1919 (c. 12), regulates the licensing, conduct, and the general supervision of music and dance halls.

Importation of Animals.—The Importation of Animals Act, 1919 (c. 15), gives the Governor in Council, on the recommendation of the Board of Health, power to prohibit or restrict the importation of "dogs or other animals" in order to prevent the introduction of any disease or contagious distempers.

Public Markets and Slaughter-houses.—The Public Markets and Slaughter-houses Act, 1919 (c. 16), gives authority for the lease of stalls and blocks for a term not exceeding five years instead of offering them annually.

Termination of the War.—The Termination of the War Definition Act, 1919 (c. 17), fixes the date of the termination of the late war as that proclaimed by His Majesty in Council under the Imperial Act of 1918.

Enemy Aliens.—The Enemy Alien Regulation Act, 1919 (c. 18), prohibits the landing in the Colony of any former enemy aliens without a permit from the Colonial Secretary. Wide supervisory and restricting powers over former enemy aliens, including deportation, are conferred on the Governor in Council.

Currency.—The Importation of British Currency Note Prohibition Act, 1919 (c. 20), prohibits for one year the importation of such notes.

The Currency Note Act, 1919 (c. 21), provides for the issue by the Government of a paper currency to the extent of £10,000 in £1 (brown), 10s. (red), and 4s. (green) denominations. The Commissioners to carry out the Act are the Colonial Secretary, the Receiver-General, and a third person elected by the Governor and not holding a salaried office under the Crown. The fixed coin proportion of the Note Guarantee Fund is two-thirds, but this proportion may be diminished by the Government with the authority of the Secretary of State, but in no case can it be less than half.

Passports.—The Passports Act, 1919 (c. 26), provides for and regulates generally the issue of passports.

Passenger Regulation.—The Passenger Regulation Act, 1919 (c. 27), restricts the number of passengers to be carried to or from the Bahamas by any ship to one person per ton. This Act also includes the provision against sending unseaworthy British ships to sea, which is a transcript of s. 457 of the Imperial Merchant Shipping Act, 1894.

Seditious Publications.—The Seditious Publications Prohibition Act, 1919 (c. 28), is the model Act sent out by the Colonial Office and based on that of the Straits Settlements. It deals generally and drastically with the printing, publishing, or the importation of all seditious newspapers, books, and documents. Prohibited newspapers, etc., are those which tend, *inter alia* (1), to incite to murder or violence; (2) to seduce British soldiers or sailors from their allegiance to duty; (4) to bring His Majesty or His Majesty's Government, wherever established, into hatred or contempt; (4) to encourage or incite any person to interfere with the administration of the law or maintenance of order; (5) to convey any threat of injury to a public servant to influence him improperly in the performance of his official duties.

Revolvers.—The Revolvers Amendment Act, 1919 (c. 29), provides that a licence to keep a gun shall be issued only on certificate of fitness granted by the Commandant of Police.

Exportation of Silver.—The British Silver Prohibition of Exportation and Hoarding Act, 1919 (c. 30), prohibits for one year the exportation or hoarding or purchase or sale above face value of British silver coin or bullion.

2. JAMAICA.

[Contributed by the HON. E. ST. JOHN BRANCH, K.C.]

Laws passed—38.

Supreme Court.—Law 16 provides that the Supreme Court shall be constituted of a Chief Justice and two Puisne Judges, and that the work of the Kingston Court shall be done by the Puisne Judges. The law will be brought into operation by proclamation. At the present time the Supreme Court is constituted of a Chief Justice and a Puisne Judge and the Full Court of the Supreme Court is constituted of the Chief Justice, the Puisne Judge, and the Judge of the Kingston Court. The effect of the law is to restore the constitution of the Supreme Court as created by Law 24 of 1879.

Martial Law.—Law 19 indemnifies acts, matters, and things directed or done under the Martial Law regulations declared to be in force in the year 1914.

Income Tax.—Law 24 makes provision for the imposition of an income tax. Relief against double income tax is afforded by s. 39. The rates charged are very moderate indeed. The first £100 is exempt.

Apportionment of Rents.—Law 30 is a transcript of the Imperial Act 33 and 34 Vic. c. 35.

Former Enemy Aliens.—Law 34 restricts the admission into the Colony of former enemy aliens.

Employers' Liability.—Law 35 is on the lines of the Imperial Act 43 and 44 Vic. c. 42.

Immigration.—Law 36 places restrictions on immigration and provides for the removal from the island of prohibited immigrants.

Trade Unions.—Law 37 provides that the purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful, so as to render any member of such trade union liable to criminal prosecution for conspiracy or otherwise. It also provides for the registration of trade unions, and makes lawful an agreement or combination of two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute if the commission of such act by one person would not be a crime.

Naturalisation.—Law 38 provides for the revocation of Instruments of Naturalisation granted under the Jamaica Act 35, Charles II. c. 3, and makes other provision in respect of such instruments.

3. WINDWARD ISLANDS.

(i) GRENADA.

Ordinances passed—26.

Trading with the Enemy.—By an amendment of previous legislation No. 3 gives power to deal with businesses of persons of enemy nationality or associations, and places restrictions on carrying on banking business for the benefit of or under the control of enemies after the war.

Scholarships.—No. 5 places holders of Government scholarships under the charge and control of a person appointed by the Secretary of State for the Colonies to be Director of Colonial Students. The Governor in Council may deduct fines for misconduct from the amount of the scholarship.

Termination of the War.—No. 8 is in the same terms as ordinances passed in other colonies, to give the Governor power to proclaim the date of the termination of the war.

Firearms.—No. 12, amended by No. 25, requires a licence to be obtained for the use and storage of firearms, ammunition, or gunpowder.

Former Enemy Aliens.—No. 13 prohibits the landing of former enemy aliens without permits and authorises their deportation.

Immigration.—The previous law containing the restrictions upon immigration is re-enacted in No. 15 with amendments.

Foreign Banks.—A licence from the Governor in Council is required by No. 17 before a foreign bank can do business in the Colony.

Excess Profits.—An excess profits tax is imposed by No. 20. An appeal lies from the Assessment Committee through the Chief Justice to the Court of Appeal for the Windward Islands upon a point of law.

(ii) ST. LUCIA.

[Contributed by the HON. J. E. M. SALMON.]

Ordinances passed—13.

Aliens.—The Former Enemy Aliens Restriction Ordinance (No. 6) authorises the detention (s. 4) and deportation (s. 5) of a former enemy alien (s. 2) who lands in the Colony without permit (s. 3). Penalty £50 or six months' imprisonment on summary conviction (s. 6). Ordinance to be in force for three years (s. 7).

Banks.—The New Banks Ordinance (No. 7) requires a written licence by the Governor in Council before any new bank can be opened or any new banking business done in the Colony (ss. 1, 2). By s. 5 the Governor in Council is empowered to make rules defining banking business. Penalty £100, or in case of a continuing offence £50 per day, on summary conviction (s. 5).

Boy Scouts.—The Boy Scouts Ordinance (No. 10) prohibits the public wearing, etc., of uniforms, etc., adopted by the Boy Scouts Association (s. 3). By s. 4 a Boy Scout is not to enforce or exercise any authority otherwise than under by-laws or rules of the Association, and no persons are falsely to claim connection with the Boy Scouts Association (s. 5). The penalty is one month's hard labour or a fine not exceeding £10 or both (s. 6). The Governor in Council is empowered to make rules by s. 7.

Government Stock.—The Government Stock (Small Holding) Disposal Ordinance (No. 9) empowers the Crown agents for the Colonies to be the "proper authority" to give the undertaking required by 38 (2) of the Imperial Finance Act, 1918.

Revenue.—No. 3 exempts the official income and allowances of the Governor of the Windward Islands and the Administrator of the Colony from income tax, and No. 12 entitles a person to deduct from his income the amount of excess profits duty which he can prove to have been paid in the United Kingdom.

War.—The Termination of the Present War (Definition) Ordinance (No. 4 of 1919) fixes the date of the termination of the war as the date declared to be such by His Majesty in Council under the provisions of the Imperial Termination of the Present War (Definition) Act, 1918.

(iii) ST. VINCENT.

[Contributed by the HON. J. E. M. SALMON.]

Ordinances passed—34.

Aliens.—The Former Enemy Aliens Restriction Ordinance (No. 24 of 1919) authorises the detention and deportation of a former enemy alien who lands in the Colony without a permit. The penalty on summary conviction is £50 or six months' imprisonment. The ordinance is to be in force for three years.

Banks.—The Foreign Banks Ordinance (No. 25 of 1919) prohibits the carrying on of banking business in the colony by a foreign bank except under a licence by the Governor in Council and subject to conditions therein specified. The penalty on contravention is £50 on summary conviction or, in the case of a continuing offence, £5 a day.

Criminal Procedure.—The Supreme Court of Judicature (Speedy

Trials) Ordinance, 1919, empowers the Court to try before the next regular Criminal Sessions, with the consent of the accused, an indictable offence not punishable by death nor by imprisonment for more than seven years. The trial in such a case on indictment and by the judge without a jury.

Currency.—The Silver Currency Restriction Ordinance (No. 33 of 1919) aims at the prevention of hoarding, exporting without licence (except sums not exceeding £3 by persons leaving the Colony), or using otherwise than as currency the silver coin in the Colony. It provides powers of search and forfeiture, and the penalty for contravention is fine not exceeding £20 or in default imprisonment with or without hard labour for a term not exceeding six months.

Illiterates' Protection.—The Illiterates' Protection Ordinance (No. 1 of 1919) invalidates any "document" as therein described "as against an illiterate person, unless it shall be signed by him in the presence of an official attestor and attested by the official attestor." The Ordinance also indicates who shall be official attestors and it penalises any scribe who fails to write the necessary certificate on a document on which the scribe writes the name or mark of any person at such person's request.

Infants.—The Law of Infants (Amendment) Ordinance (No. 5 of 1919) makes provision for the custody and guardianship of children and empowers the Court to order the production of a child and repayment of the cost of bringing up a child. It also regulates the liability of an infant on a contract for necessities; and of a person of full age in respect of debts contracted by him when an infant or ratifications made by him. The provisions of this Ordinance are like those of Imperial Acts including 36 and 37 Vict. c. 12; 37 and 38 Vict. c. 62; 49 and 50 Vict. c. 27; 55 and 56 Vict. c. 4.

Revenue and Taxation.—The Estate Duty Ordinance (No. 17 of 1919) provides for the collection of duty on the property of deceased persons at the rates specified in the schedule, which are graduated, commencing at £1 per cent. when the principal value of the estate exceeds £100 and graduated up to £10 per cent. on £80,000 and upwards. A father, mother, wife, husband, child, or grandchild pays only half of the rates.

The Income Tax Ordinance (No. 29 of 1919) repeals the 1904 Ordinance and imposes a graduated income tax commencing at 1*d.* per £1 where the income exceeds £150 and graduated up to 1*s.* 9*d.* per £1 on incomes exceeding £5,000.

Sale of Goods.—The Sale of Goods Ordinance (No. 9 of 1919) is based on the Imperial Sale of Goods Act, 1893 (56 and 57 Vict. c. 71).

Other Ordinances

Boundaries Settlement, 1916 Amendment Ordinance, 1919 (No. 22), provides for the lodgment of plans and reports of surveys, making them binding in default of an appeal to the Chief Justice within twelve months of completion of survey.

Cattle Diseases Prevention Act, 1869, Amendment Ordinance, 1919 (No. 20), which defines "animals."

Cinematograph, 1911, Amendment, 1919 (No. 15), gives power to the Governor in Council to make regulations.

Cotton Diseases Prevention Amendment Ordinance, 1919 (No. 32), provides for the destruction of old cotton plants.

Importation of Plants Diseases Prevention, 1906, Amendment, 1919

(No. 6), empowers the Governor to have imported plants examined before they are landed, and to prohibit the landing of any goods likely to introduce disease or pest injurious to plant life.

Small Debts Ordinance, 1911, Amendment Ordinance, 1919 (No. 4), provides for the seizure of growing crops.

Termination of the Recent War (Definition) Ordinance, 1919 (No. 23), empowers the Governor in Council to declare the date to be treated as the date of the termination of the war, as well as to similarly declare the date of the termination of the war with any particular State.

4. TRINIDAD AND TOBAGO.

[Contributed by the HON. THE ATTORNEY-GENERAL.]

Ordinances passed—33.

The following are the more important of the Ordinances which are likely to be of interest outside the Colony :

Children.—No. 5 introduces the provisions of the Imperial Act 8 Ed. VII. c. 67 relating to cruelty to and other offences against children and young persons. The sections of the Act relating to juvenile smoking are also introduced.

Larceny.—No. 10 is a copy, with the necessary verbal amendments, of the Larceny Act, 1916, of the Imperial Parliament (6 & 7 Geo. V. c. 50). S. 20 provides that in an indictment for larceny or embezzlement the accused may be charged for the amount of a general deficiency in account notwithstanding that such general deficiency is made up of any number of specific sums the taking of which extended over any space of time, and without showing any particular sums received and not accounted for. This section is taken from s. 535 of the Bermuda Criminal Code, 1906.

Labour Exchanges.—No. 13 is adapted from the Imperial Act 9 Ed. VII. c. 7.

Roads.—No. 18 gives the Director of Public Works power with all proper assistants and on giving 72 hours' notice in writing to enter on private land for the purpose of ascertaining whether it is advisable in the public interest to construct a road over such land. Under the Land Acquisition Ordinance, No. 42, the Director of Public Works can enter land only if money for some particular work for which the entry and survey are necessary has been voted.

Enemy Aliens.—No. 19 follows the usual lines and enables the Government to control the entry into the Colony of former enemy aliens for the next three years. Such aliens are not to enter the Colony without the written permit of the Colonial Secretary, and the Governor may direct the conditions under which such permits may be granted. Under the definition of "former enemy aliens" subjects of new friendly States will be able to enter the Colony without a permit.

Any former enemy alien who enters or attempts to enter the Colony without a permit or fails to observe its conditions is liable on summary conviction to a fine not exceeding £100, and may also be ordered to quit the Colony.

Alien Banks.—No. 25 enables the Governor in Executive Council to impose on any foreign bank operating in the Colony restrictions similar to those (if any) imposed on British banks operating in the foreign country concerned.

Section 3 provides that no alien shall commence or carry on any banking business in the Colony unless he holds a licence from the Governor in Executive Council authorising him to do so. Such a licence may contain such conditions and restrictions as the Governor in Executive Council may, in his absolute discretion, think fit.

Under s. 7 the Governor in Executive Council may by order apply the Ordinance to companies incorporated within His Majesty's dominions but not under British control, which latter term is defined. This provision will enable the Governor to prevent evasion of the law by an attempt to start a company nominally British but really controlled by aliens.

Customs.—No. 28 prohibits except under the licence of the Governor the importation of dyes and dye-stuffs, not the produce or manufacture of any part of the British Empire.

Plants' Diseases.—No. 29 re-enacts the existing law. The only amendment of substance is in s. 5, which gives the Governor power to prohibit the importation of plants, seeds, soil, etc., either absolutely or subject to conditions. Under the previous law the power to prohibit importation was limited to cases in which there was reason to believe that plants were affected with disease or were from a place in which disease is suspected to exist.

Income Tax.—No. 31 imposes a tax on incomes for the year 1920. The tax is to be paid for the purposes of the general revenue of the Colony and is graduated from 3*d.* per £1 for the first £1,000 up to 6*s.* per £1 beyond £20,000.

No person (not being a company) shall be taxed on the first £500 of his income. Income on which British income tax is paid is exempt.

Termination of the War, 1919 (No. 32), gives the Governor in Executive Council power to declare by proclamation what date is to be treated as the date of the termination of the war either generally or with regard to any particular State for the purposes of any provision in any Ordinance, proclamation, etc. This Ordinance follows the Imperial Act 8 & 9 Geo. V. c. 59.

Profiteering.—No. 33 provides machinery for controlling the prices of articles in common use by the public. Its operation was to cease on December 31, 1920, unless otherwise determined by the Legislative Council.

Section 2 gives the Governor power to declare any article or class of articles to be in common use by the public, and to prescribe the maximum wholesale and retail prices at which such articles may be sold, or the amounts which for the purpose of fixing such prices may be added to the invoice price or the cost of production, to cover all costs and charges, including a reasonable profit.

For the purposes of this section the Governor may order the furnishing of information and the production of invoices, accounts, and documents.

By s. 3 it is made a summary-conviction offence for any person to sell at prices in excess of the fixed maximum prices. Whenever it is suspected that an offence has been committed, the Governor may require information to be given and documents to be produced for the purpose of ascertaining the invoice price or cost of production.

Section 6 gives power to the Governor in Executive Council by order to authorise any person to purchase and sell commodities on behalf of the Government. Such orders are subject to the approval of the Legislative Council.

By s. 7 the Governor may delegate his powers under the Ordinance to one or more Committees, to be styled Profiteering Committees, to operate in such areas as may be assigned to them.

5. LEEWARD ISLANDS. FEDERAL.

[*Contributed by the HON. W. M. WIGLEY.*]

Acts passed—16.

Two of the Ordinances were appropriation laws (1 and 2) and three were amending laws of no general importance (3, 4, and 10).

Summary Convictions.—No. 3 provides an additional mode of the proof of summary convictions; by the production of a copy of the minute of the conviction, signed by the magistrate or his clerk.

Alien Bankers.—Aliens are, by the Alien Bankers Act (No. 6), not permitted to carry on any banking business in the Colony save by licence from the Governor in Council. The expression "alien" includes (a) an individual not a British subject; (b) any firm, partnership, or unincorporated body, and (c) any body corporate not incorporated in some part of His Majesty's Dominions.

Former Enemy Aliens.—No. 7 repeals the Former Enemy Aliens Act, 1919, and re-enacts its provisions with a new definition of the expression "former enemy alien." The duration of the Act is limited to three years.

Undesirable Persons' Expulsion.—No. 8 gives power to the Governor in Council to deport undesirable persons, not natives of the Colony. When it is considered expedient for the peace and good order of the Colony British subjects can also be deported after conviction for sedition or riot; and aliens after conviction for any offence punishable with imprisonment without the option of a fine.

Seditious Publications.—The printing, publication, or importation of seditious newspapers and documents are made offences punishable on summary conviction by No. 9.

West Indian Court of Appeal.—No. 11 makes the Colony a party to the West Indian Court of Appeal. The Title by Registration Acts are not affected.

Treaty of Peace.—Nos. 12 and 16 modify and adapt the Imperial Treaty of Peace Order, 1919, to the conditions of the Colony.

Mico Act.—The Mico Act of 1899 is repealed by No. 13.

Silver Coinage Supply.—The use of silver coins for the time being current in the Colony is made an offence punishable on summary conviction by No. 14. The exportation of silver coins may be prohibited by the Governor in Council. The duration of the Act is limited to one year.

Government Currency Notes.—Provision is made by No. 15 for the issue of Government notes, payable to bearer, of 10s., 5s., and 2s. 6d. denominations.

(i) ST. CHRISTOPHER AND NEVIS.

[*Contributed by the HON. W. M. WIGLEY.*]

Ordinances passed—18.

Two were appropriation Ordinances (1 and 18), and three conferred on the Federal Council power to legislate on the subjects respectively of Government currency notes, the expulsion of undesirable persons, and the

Governor's salary (6, 7, and 11). Eight were amending Ordinances of no general interest (4, 8, 10, 12, 13, 14, 15, and 17) and one (2) continued emergency taxation for a further period of one year.

War Powers, Partial Abolition.—No. 3 repeals the Defence of the Presidency Ordinance, 1917, and re-enacts for one year the provisions giving the Governor in Council power to control the prices of foodstuffs and kerosene oil.

Exportation and Importation Prohibition.—No. 5 gives the Governor power, by Order in Council, to prohibit the exportation or importation of any article. The duration of the Ordinance is limited to three years from the termination of the war.

Termination of the War.—No. 9 declares the date to be deemed the date for the termination of the war.

Administrator.—The Administrator's Ordinance, 1907, is repealed and re-enacted by No. 16, and the salary of the Administrator is increased.

(ii) DOMINICA.

Ordinances passed—6.

Friendly Societies.—No. 2 gives the local legislature power to make laws similar to the English Friendly Societies Acts of 1896 and 1908.

Statute Law Revision.—No. 5 is a comprehensive statute law revision Ordinance.

Children.—The emigration of children is regulated by No. 6 in similar terms to Ordinances which have been passed in other West Indian colonies.

X. MEDITERRANEAN COLONIES.

1. CYPRUS.

[Contributed by MR. JUSTICE STUART.]

Laws passed—28.

Nos. 1, 2, 3, 4, 25, and 26 are ordinary financial appropriation laws.

Alien Enemy.—No. 5 amends a private enactment relating to the disposition of a mining enterprise of a former alien enemy subject.

Extradition.—No. 6 amends the law providing for the expenses of removal of a Cypriot convicted (or acquitted on the ground of insanity) of an offence committed in a country within the operation of the Foreign Jurisdiction Acts.

Animals (Contagious Diseases).—No. 7 classifies "poultry" as "animals" for the purpose of the Contagious Diseases (Animals) Law, 1880.

2. GIBRALTAR.

[Contributed by CAPT. MAXWELL ANDERSON, C.B.E., K.C., R.N. (ret.).]

Only seven Ordinances were enacted during 1919, no one of which is of prime importance.

Wharf Dues.—Ordinance No. 1 provides for an addition to the wharf dues.

Police.—Ordinance No. 2 is an amendment to the Civil Police Ordinance, 1884, whereby time served by members of the Police Force

in any of H.M. Forces during the war is to reckon as time served in the Police Force for the purpose of pension, provided that the member so serving rejoins the Police Force and is not in receipt of a pension other than a wounds pension for his service in H.M. Forces.

Execution.—Ordinance No. 3 provides for the Registrar of the Supreme Court exercising the powers and duties of a sheriff in carrying into effect writs of execution.

Aliens.—Ordinance No. 4 amends s. 7 of the Title to Lands Consolidation Order in Council, 1888. The section of the Order in Council deals with the question of aliens holding or disposing of lands, and the Amending Ordinance adds to the manner of inheritance, tenancy by elegit.

Ordinance No. 5 restricts the entry into Gibraltar of former enemy aliens, by which term is designated the subject of any State with which His Majesty was at war during 1918.

Boy Scouts.—Ordinance No. 7 was passed to protect the Boy Scouts Association. It is identical in terms with similar Ordinances enacted in other Colonies.

FOREIGN.

1. ARGENTINE REPUBLIC.

[Contributed by DR. ESCOBAR.]

1918.

Agriculture.—Law No. 10,403 authorises the National Executive Power to spend one million (1,000,000) dollars paper money to purchase seeds and distribute them in loans among the agriculturists.

Labour.—Law No. 10,505 refers to work done in houses and controls the conditions of safety and health. The law appoints a special Commission nominated by employers and workmen to fix the minimum wage for work done in the house.

Railways.—Law No. 10,650 concerns the superannuation and pensions of the employees of the Railway Companies. It establishes a Committee, with a president named by the National Executive Power and three members named by the employers and workmen; determines the age of retirement, years of service, voluntary retirement, for ordinary causes, or inability to continue from any other cause, and fixes the rates of contribution at 5 per cent. of the salary of each employee or workman and 8 per cent. of the total amount of these salaries to be paid by the Companies. The law provides for the transference of the superannuation on account of the death of the superannuated to the widow or widower, sons, parents, unmarried sisters, etc.

1919.

Law No. 10,657 corrects and makes clear the meaning of some clauses of No. 5,315. The Railway Companies are granted exemption from the payment of taxes, etc., but not in the case of the payment of cost of public services of sewers, water supply, paving, etc.

Bank.—Law No. 10,676 modifies Law No. 8,172, which refers to matters in connection with certain changes granted to the National Mortgage Bank. This law increases the capital of the Bank, extends the privileges

and powers of the Institution, and assists small proprietors, agriculturists, and employees of the National Government to enable them to construct houses, etc.

Agriculture.—Law No. 10,777 authorises the National Executive Power to spend \$25,000,000 (twenty-five million dollars) paper money for the purpose of the purchase at home and abroad of all that is necessary for the harvest of grains and cereals, such as cotton, and the material for making sacks, which would be sold to the farmers, under certain conditions which would be arranged.

Census.—Law No. 10,834 approves the National Census taken in the year 1914, and as a result of same fixes the population of the Argentine Republic at 7,886,294 inhabitants. This law raises the number of National Deputies to 158.

Education.—Law No. 10,861 sanctions the creation of a new University, with seven faculties for the study of different subjects.

Civil Status.—Law No. 10,871 gives to the Argentine citizens the restoration of their political rights, which they had lost by taking up arms and enlisting with the European armies during the last war.

Paternal Power.—Law No. 10,903 reforms the Civil Code relating to "Patria Potestas" (Paternal Power). This law concedes greater powers to the judges for the protection, efficient and true control of the interests, rights, morality, and, lastly, of the persons, of those under age.

Radium Institute.—Law No. 10,904 authorises the National Executive Power to give \$200,000 paper money to the University of Buenos Ayres for the creation of an Institute for Radium.

Wharves.—Law No. 10,927 authorises the National Executive Power to build floating wharves in various points of Parana, Uruguay, and Paraguay Rivers, and the Atlantic Ocean, to the value of \$3,500,000 paper money.

Solicitors.—Law No. 10,996 relates to solicitors, their conditions, rights, responsibilities, etc.

Public Health.—Law No. 10,998 authorises the National Executive Power to project and construct sanitary works (sewers and waterworks) in many towns all over the Republic. The payment of these works will be made with loans of a successive series to the value of \$15,000,000 national money respectively.

2. CHILE.

[Contributed by SENOR LABATUT.]

Public Treasury (Finances).—Law of February 4 enacts that the amount of expenditure fixed in each item of the estimate of the nation which is approved annually must not be exceeded.

On February 13 a law was approved which modified former laws connected with the affixing of stamps, seals, and stamped paper.

Currency.—Law of August 11 authorises the coining of twenty thousand pesos in nickel coinage.

Law of December 1 repeals the term fixed for the conversion of paper money of fixed currency.

Naval Credits.—Law of February 21 lays down rules for naval mortgages and establishes the Law of Naval Mortgages, which is intended to facilitate loans on mortgages of Chilean ships belonging to persons

domiciled in Chile, or to companies constituted in conformity with Chilian laws whose board of management is domiciled in the country.

State Railways.—Law of February 25 approves of the estimate of revenue and expenditure of the railways, and authorises the loan of 89,000,000 golden pesos as well as allowing tariffs to be raised 20 per cent.

Foreign Affairs.—By the law of October 3 the President of the Republic is authorised to declare the adhesion of Chile to the League of Nations.

3. CHINA.

[Contributed by PROFESSOR WANG KING KY.]

The following was the Presidential Mandate of April 27, 1919, concerning the status of non-treaty aliens :

It should be remembered that when subjects or citizens of foreign countries not in treaty relations with China either travel or reside in this country, they shall be subject to the laws and ordinances of the land. No third country can claim to afford protection to such alien residents or travellers. A circular Order to this effect was issued to the provinces by the then Ministry of Foreign Affairs in the Ninth Moon of the Thirty-fourth year of Kuang Hsu in the late Ching Dynasty (November 1908).

Henceforth, if any foreign Power heretofore having no treaty relations with this country wishes to conclude treaties therewith, let it be understood that such treaties shall be based upon the principle of equality between the contracting parties. Those countries which have lately separated themselves from their mother countries and become independent States can, of course, have no claim to the rights and privileges which their mother countries have enjoyed in China under special treaty stipulations. As there are not a few aliens of such newly formed States resident in this country, let them understand that they shall hereafter be subject to the Chinese laws and ordinances in regard to the payment of taxes and the conduct of lawsuits. Should any foreign Power claim the right to look after the interests of non-treaty alien residents, representation shall be made against the validity of such claim in accordance with the precedents already established.

A set of Regulations relative to the administration of non-treaty alien residents shall be promptly drawn up and promulgated for the guidance of local officials in handling such cases. The Kuowuyuan (Cabinet) is hereby ordered to instruct the various Governmental organs concerned to draft copies of such Regulations, and submit the same to us for approval. For the information of local officials, circular notifications to the above effect shall be issued by the provincial authorities.

Regulations governing the judicial procedure in civil and criminal cases for non-treaty aliens were promulgated on May 23, 1919, as follows :

Article 1.—The judicial procedure in both civil and criminal cases for non-treaty aliens shall be subject to the present Regulations.

Article 2.—With the exception of the offences provided for under Items 3 and 4 (referring to internal rebellion and offences against foreign intercourse) of the Draft Law concerning Criminal Procedure, all the cases referred to under Article 1 of the present Regulations shall, in the first instance, be subject to the local Court of Justice, or to the local Court established by the Judicial Department of the Tartar-General's Yamen. In places where there are no such Courts, the cases mentioned above shall be transferred to the nearest local Court of Justice for adjudication by the local authorities concerned. In frontier regions, where the conditions are such as to render

the transfer of such cases impossible, the local authorities thereof shall report such cases to the Ministry of Justice for consideration and disposal.

Article 3.—In all the cases referred to under Article 1, when the detention or imprisonment of non-treaty aliens becomes necessary, they shall be detained or imprisoned in the new prison wards. In places where there are no such new prison wards, proper accommodation may be substituted for their detention or imprisonment.

Article 4.—Regarding the judicial procedure for which no special provision is made in the present Regulations, the articles of the law governing civil and criminal procedure that have been approved of (by the President) and other such laws and ordinances shall be applicable.

Article 5.—In case any revision of the present Regulations is necessary, such revision shall be made and promulgated by an Instruction Mandate of the President upon the request of the Minister of Justice.

Article 6.—The present Regulations shall become operative on the day of promulgation.

Regulations governing the imposition of taxes on non-treaty alien residents were promulgated on June 13, 1919, as follows:

Article 1.—When importing goods into this country, a non-treaty alien shall be liable to pay all the Customs duties provided for in the National Regulations governing the imposition of Customs duties.

Article 2.—Non-treaty aliens who ship goods into the interior for sale shall be liable to pay all the likin and other miscellaneous taxes. No Transit Passes shall be issued to them by the Customs House.

Article 3.—No Transit Certificate shall be issued to non-treaty aliens who collect native goods in the interior.

Article 4.—Non-treaty aliens who transport goods in the interior shall not be entitled to the exemption of duties or to the Transit Certificate granted to foreign manufactures.

Article 5.—A non-treaty alien shall not be eligible to act as "revenue agent" (Ya-chin) in the interior.

Article 6.—The present Regulations shall become operative on the day of promulgation.

Regulations governing the administration of non-treaty alien residents were promulgated on June 22, 1919, as follows:

Article 1.—Non-treaty aliens residing within the territory of China shall be subject to the jurisdiction of the administrative authorities thereof, in accordance with the provisions of the present Regulations.

Article 2.—On entering into Chinese territory a non-treaty alien shall submit his passport to be viséd, and other measures shall be taken to identify his occupation and social status.

Article 3.—Should a non-treaty alien be found to be a tramp, pauper, or any other character whose presence is dangerous to the public peace or public health of this country, he shall be prohibited from entering.

Article 4.—Any non-treaty alien who, upon entering the country, is suspected of carrying contraband shall be subject to inspection.

In case contraband is discovered as a result of the inspection mentioned in the preceding paragraph, such contraband shall be liable to seizure; and if the importation of the contraband is believed likely to lead to grave consequences, the carrier shall be prohibited from entering the country.

Article 5.—Should a non-treaty alien who, after entering into this country, be engaged in any unlawful occupation or commit illegal acts which are dangerous to public peace and order, he shall, in addition to being properly dealt with according to the laws and ordinances of the land, be liable to deportation. Those who are suspected of espionage, etc., shall be subject to the same measures.

Article 6.—Non-treaty aliens may reside in treaty ports or places where foreigners are by sufferance allowed to reside.

In case non-treaty aliens lease houses at places provided for in the preceding paragraph, they shall observe the Regulations governing the lease of houses in those places.

Article 7.—Should a non-treaty alien travel in the interior, he shall be required to apply to the authorities for a passport. No surveying of any kind shall be allowed to be done by a non-treaty alien at the places where he travels.

Article 8.—A non-treaty alien shall not be allowed to lease property in the interior. But those who reside in inland towns and cities as missionaries and lease houses in the name of their Mission for the purposes of establishing churches, schools, hospitals, and other charitable organisations shall be excepted.

In the case of leasing houses under the provision of the preceding paragraph, both the lessor and the lessee shall submit their lease to the local authorities concerned for sanction.

Article 9.—Non-treaty aliens shall not be allowed to act as editors or publishers of newspapers or magazines of whatever kind, nor shall they be permitted to become members of societies having political affiliations or participate in meetings convened for political controversy.

Article 10.—The administration of the non-treaty alien residents shall be subject to the general laws and ordinances of the land, in addition to the present Regulations and the other specially promulgated laws and ordinances.

Article 11.—The present Regulations shall become operative on the day of promulgation.

An Ordinance of the Ministry of Agriculture and Commerce concerning the treatment of non-treaty alien residents was approved by Presidential Mandate, June 25, 1919.

Article 1.—A non-treaty alien resident shall have no right to acquire any special licence or concession in regard to forestry, mining, industry, commerce, fishery, or cattle-raising in any part of China.

Article 2.—Any right or privilege acquired by a non-treaty alien at a time when he was a treaty alien through special licence or concession in regard to the particulars mentioned in the preceding article shall be revoked and of no effect.

An Ordinance of the Ministry of the Interior supplementing the Regulations governing the administration of non-treaty alien residents was approved by the President, December 10, 1919.

Article 1.—The viséing of passports and the investigation of occupation and social status provided for in Article 4 and the inspection provided for in Article 4 of the Regulations shall be made by the local authorities of the port or place at which the non-treaty alien first arrives on entering into this country, but in places where there are Custom houses the local authorities may authorise the Customs officials to act for them or send deputies to act jointly with the Customs officials.

Article 2.—The passport to be viséd shall first be inspected and then stamped accordingly, and a monthly report of those non-treaty aliens who have entered into this country, together with a table of their names, nationality, occupation, and the purposes of their coming shall be made to the highest local authorities to be forwarded to the Ministry of Foreign Affairs, the Ministry of the Interior, and also the Commissioners of Foreign Affairs.

Article 3.—A non-treaty alien who, in accordance with the provisions of Article 6 of the Regulations, lives in any one of the places mentioned therein shall submit the viséd passport to the local authorities concerned, who shall, after due inspection, register the same and give him a permit of residence,

and shall make a report in accordance with the provisions of the preceding Article.

Article 4.—In regard to the deportation of non-treaty aliens, as provided for in Article 5 of the Regulations, a maximum of three months of grace may be granted at the discretion of the authorities concerned, and notice thereof shall be communicated to the person concerned, telling him to leave the country on or before a fixed day; if he fails to do so, his deportation may be effected by force.

Article 5.—In regard to the travelling passport, provided for in Article 7 of the Regulations, the non-treaty alien shall apply to the local authorities of the place where he lives, stating the purposes, places, and the time of his travel; the local authorities shall forward the application to the highest local authorities for approval before granting it.

Article 6.—Any question in the administration of non-treaty aliens which is not provided for in the Regulations, nor in this Supplementary Ordinance, nor in any other regulations, or any doubt arising in the application of the general provisions of Article 10 of the Regulations shall be referred to the Ministry of Foreign Affairs and the Ministry of the Interior for consideration.

Article 7.—Non-treaty alien residents who were in China before the coming into force of the present Regulations and this Supplementary Ordinance and who continue to reside therein shall be investigated by the local authorities concerned and governed in accordance with the provisions of the Regulations and this Supplementary Ordinance.

Article 8.—The "local authorities" referred to in this Ordinance shall be the Chief of Police in places where there is an established Police Force, or the District Magistrate in places where there is no such Police Force.

Article 9.—This Supplementary Ordinance shall become operative on the day of promulgation.

4. CUBA.

[Contributed by R. R. ALTUNAGA, Esq.]

1918.

Civil Code.—The Spanish Civil Code of 1889 is in force in Cuba, with numerous amendments introduced after January 1, 1899, when the Spanish dominion in the Island ceased.

During the year 1918 certain important Acts were promulgated which modify some of its Articles, and among these Acts the most notable is that of July 29, which includes various points. This establishes that laws shall come into force in Cuba three days after their promulgation, if it is not otherwise provided in them.

The promulgation dates from the day of the last publication of the law in the *Official Gazette* of the Republic. The Civil Code established it at the end of twenty days, but the law mentioned above reduces it to three days.

Article 42 remains as formerly drawn up, as follows:

"Marriage is a civil contract and is only legally effective when it is celebrated in the form established in the Civil Code."

The first paragraph of Article 45 which treats of the prohibitions of marriage is modified in this respect:

"Marriage is prohibited to a minor of 21 years who has not obtained consent."

The following sentence has been omitted, which says:

"An adult under 23 years who has not asked the counsel of the persons to whom belongs the right to authorise one or other in the cases determined by the law."

In Cuba, as in Spain to-day, the *licencia* and (the consent of) the *consejo* are necessary; the former for minors, the latter for adults of 20 and less than 23 years. (The Civil Code said 25 until the Military Order 140 of 1901 modified it.)

However, marriage of these persons can be celebrated nevertheless without either the *licencia* or the *consejo* aforesaid, though the law establishes for such cases "sanctions" relating to the economic regimen of marriage (Art. 50), e.g. the husband is deprived of administration of the community property.

Article 48 has been modified thus:

The *licencia* to contract marriage must be proved on the application for it by means of a notarial document or by the appearance of the person who must give legal assent to it before the authority or functionary who is about to celebrate it, or before the Municipal Judge of the domicile of the petitioner."

Article 49 of the Civil Code says:

"None of those called upon to give their consent or counsel is obliged to give the reasons on which his assent or dissent is founded; nor is there any recourse against his dissent."

Naturally, in accordance with the reform recently introduced the word "*consejo*" had to be omitted because it has disappeared from our law; and certainly there is no juridical or moral reason which justifies the existence of this requirement.

Of Article 73, which relates to the effects of the decree of divorce, paragraphs 4 and 5 are rearranged in the following form:

"4.—The settlement and separation of property of the conjugal partnership."

Article 83 treats of persons who cannot contract marriage, and in paragraph 4 decrees prohibition to

"those ordained *in sacris* and those professing a religious order canonically approved, themselves bound by solemn vows of chastity, unless they have obtained the corresponding canonical dispensation."

The existence of this article, like many others of the Civil Code, was easily explained in Cuba when she was a Spanish possession, inasmuch as Spain was and is bound to the Holy See by pacts which are laws of the Monarchy; but since May 20, 1902, when the Constitution of the Republic was promulgated, pursuant to which—

"The Church is separated from the State, which has no power to subsidise any particular religion in any case," this sentence called for immediate repeal, and the Cuban Legislature passed the law of July 29 repealing it.

Article 100 provides that Consuls and Vice-Consuls shall exercise the functions of Municipal Judges (who have charge of the civil register of persons) in the marriage of Cubans celebrated abroad, and, according to various regulations of our Secretary of State, these functions are confined solely to the transcription on the books of the Registry of the Certificates of Marriage.

To-day, these Acts can be authorised, in accordance with the letter of the law, which says:

"Consuls and Vice-Consuls of the Republic shall exercise as to the marriages of Cubans which are celebrated abroad the functions of Municipal Judges."

With respect to the nullity of marriage, the fourth paragraph of Article 101 is modified, thus:

"A marriage which is celebrated without the intervention of the authority or functionary who ought to authorise it, or if without the presence of those witnesses which, in every case, the law requires, is void."

The right which the clergy of religious bodies recognised by the State had (formerly) to authorise marriages, as commanded by the Military Order No. 140, already cited, is abolished. Moreover, it is provided that this Order, which contains the greater part of the legislation on the subject of marriage, should be repealed, except Article III, which treats of the regulations which have to be taken into consideration in the celebration of civil marriages and the fees which must be paid for attesting them.

Similarly are repealed the Order 307 of August 8, 1900, and all such regulations as declare valid and efficacious the religious marriage and whatever else is contrary to marriage as it is defined in Article 42 of the Civil Code as modified by the first Article of the law of July.

The same day, July 29, the President of the Republic gave his sanction to another law, perhaps the most important which has been promulgated during the time of the Republic, to establish absolute divorce.

The ruling doctrine in Cuba on the matter of divorce, until July 1918, was the Spanish, inspired, as we have said before, by the canons of the Roman Church, and as to this the Code de las *Partidas* condemned divorce. It says:

"Siendo finca firma el casamiento maguer acaesciese que los oviesen a departir por razon de adulterio."

Up to this time, in the Cuban law, there was no divorce other than divorce *quoad thorum et habitationem*, which the canonists acknowledge.

The substance of the reform of the Cuban legislator is expressed in Article 1 of the law, which says: "Divorce, which this law establishes, produces the dissolution of the marriage-tie, leaving to the spouses the capacity to contract a fresh marriage within the time and under the limitations which are provided in the law itself."

Alongside this absolute divorce there exists also separation *de corps*; both forms, nevertheless, cannot be used in any case simultaneously, nor successively for the same cause.

The causes of divorce with dissolution of the matrimonial *vinculum* are: adultery; any act of the husband which tends to prostitute his wife, or that of either of the spouses (which tends) to corrupt or prostitute the children, and the participation in or profit from their corruption or prostitution; grave injury by violence; grave and repeated injury by words; the commission, after marriage, of a grave crime, whether consummated or frustrated, whether as author or accomplice, provided that some life punishment shall have been imposed on the culprit (except disability), or the chains, imprisonment, or temporary banishment in any of their grades, or hard labour, or the penitentiary in the highest grade, and after the sentence shall have been made final; the commission of a grave crime of the degree of attempt (either in the character of author or accomplice) against the person of the other spouse or of the children, provided that the sentence is final; habitual drunkenness; confirmed gambling; voluntary desertion of the home continuously for more than two years; failure voluntarily and reiterated of the husband to sustain the home; the lapse of two years after a judicial declaration of absence without

having had any news of the absent one ; contagious disease of sexual origin contracted since the celebration of the marriage and outside the same ; mutual consent.

The right to divorce cannot be renounced, and cannot be the subject of agreement in the articles of marriage, and cannot be agreed by formal contract.

A new marriage either of the innocent or the guilty spouse cannot be celebrated until the lapse of a year from the time when the decree of divorce becomes final.

The following persons cannot contract a fresh marriage : (a) the spouse who has been declared guilty of the second cause of divorce ; (b) the party who has been declared guilty twice in proceedings for divorce.

The dissolution of the matrimonial *vinculum* does not free the father from his obligations to his children, nor deprive them of their rights with respect to the father, and in view of this the law establishes suitable regulations providing for the maintenance and education of minor children, as in like manner the laws of many other countries do.

Chapters 6 and 7 contain the appropriate regulations which must be followed in the proceedings of divorce actions, according to the causes which are pleaded.

Industrial Legislation.—At the fourth Pan-American Congress held in Buenos Ayres in August 1910 it was decided to establish in America International Offices for the protection of trade-marks of nationals of the signatory countries ; one in Habana for the countries included in the Northern Group, and the other in Rio Janeiro for the Southern Group.

The President of Cuba, in order to put into execution the provisions of the Convention of Buenos Ayres, promulgated on December 14, 1918, a short Regulation for the office in Habana. This is composed of ten Articles, in which are set out the proceedings to be followed by those who apply for the registration of their trade-marks in the said office for the purpose of international protection.

War Legislation.—Cuba declared war on the Empire of Germany on April 7, 1917 ; and in order to provide for the national defence and the obligations which belonged to it as a belligerent, the Congress of the Republic voted, and the President sanctioned, the law of compulsory military service on August 3, 1918, and on the 30th of the same month issued the Regulations for its execution.

A short time before this the law of July 23 as to enemy aliens was promulgated, and also the Regulations to which they are required to submit.

The presidential decree No. 1,539 of September 17, 1918, which establishes the Regulations as to enemy aliens resident in the Republic and the custody and care of their property, can be considered as a complement to the said law.

A discussion of the matter is no longer worth while, since, at the time of writing, the state of war with Germany (which justified all the measures of national defence taken by Cuba) has ceased, the Regulations have been abrogated, and Cuba has signed the Peace Treaty and joined the League of Nations.

5. FRANCE.

[Contributed by O. E. BODINGTON, Esq.]

Illicit Commissions (Law of February 16, 1919).—This law completes Article 177 of the Penal Code, which restricted the offence of taking illicit commissions to public servants (*fonctionnaires*), extending it to clerks and all salaried employees of traders or manufacturers who, directly or indirectly, without the knowledge or consent of their employer, solicit or accept offers or promises, or solicit or receive gifts, presents, commissions, discounts, or premiums in consideration of performing an act arising out of their employment or abstaining from performing an act which their duty dictates. The penalty is a fine of from 500 francs to 3,000 francs, and imprisonment of from one to three years.

Article 179 of the same Code is similarly completed by extending the offence of attempted corruption of public servants to attempted corruption of clerks, employees, etc., as above described. The penalty is imprisonment from one to three years and a fine ranging from 3,000 francs to 10,000 francs.

Compulsory Plans for Embellishment of Towns (Law of March 14, 1919).—Hitherto towns were only obliged to have a general plan of alignment and levelling. By this law every town of at least 10,000 inhabitants must make out within a maximum period of three years from the promulgation of the law :

(1) A plan fixing the direction, width, and the character of the roads to be built or altered, the situation and extent of squares, public gardens, parks, and so forth.

(2) A programme setting out the reservations and obligations in respect of hygienic, archæological, or æsthetical interests concerning free spaces, height of buildings, distribution of water, sewer system, etc.

(3) A draft ordinance of the Mayor, regulating the application of the measures prescribed under the foregoing heads.

The same obligations apply to watering-places, climatic stations, hydropathic stations, etc., whose population increases by 50 per cent. at certain periods of the year.

These plans are submitted to examination by a departmental commission formed in the Prefecture of each department, presided over by the Prefect, and thereafter to a superior commission for the planning, embellishment, and extension of towns, instituted at the Ministry of the Interior, and the works are carried out after a declaration of public utility made by decree of the Council of State.

Register of Commerce (Law of March 18, 1919).—This law introduces a Register of Commerce, one in the district of each Tribunal of Commerce, in which must be entered the names of all French or foreign traders having in France either their principal establishment or a branch or agency, as well as all public companies, French and foreign.

The main object of the law is to afford a convenient means of ascertaining the nationality of traders. Erroneous declarations are punished by a fine ranging from 100 to 2,000 francs or imprisonment from one month to six months, or one or other of these penalties.

Divorce (Law of April 5, 1919).—Formerly in case a divorced husband and wife married again they could not divorce again for any reason except

a sentence on one or other of them for felony (*peine afflictive et infamante*). This provision is now abrogated by the law of April 5, 1919.

Law of June 26, 1919.—Up to the present after a decree of divorce had become final by expiration of the period of appeal, it still might lapse, if it were not transcribed upon the Marriage Register within the prescribed period, so that if this formality were overlooked the whole proceeding might fall to the ground. The law under consideration corrects this, and transcription is no longer a substantial formality of procedure. In other words, as soon as the statutory period for appeal has elapsed the divorce is final and conclusive, and cannot lapse by default of transcription.

Eight-Hours Law (Law of April 23, 1919).—This law establishes an eight-hours day in all industrial commercial establishments of whatsoever nature, public or private, secular or religious.

Fortifications of Paris (Law of April 19, 1919).—Law authorising the demolition of the fortifications of Paris.

Preferred Claims of Employees (Law of June 17, 1919).—This law extends the preferred claim of *gens de service*, which was interpreted as meaning only domestic servants, to employees generally; also the preferred claim of clerks and domestic servants for three months' salary in case of bankruptcy or judicial liquidation is extended to dramatic artists and all other persons employed in connection with public performances.

Insolvency (Law of July 2, 1919).—Alleviates the position of traders who are unable to meet their payments within three years following ratification of the Treaty of Peace, and permits them instead of filing a petition in bankruptcy to obtain from their creditors the benefit of a composition arrangement or *règlement transactionnel*.

Parliamentary Elections (Law of July 12, 1919).—Establishes the *Scrutin de liste* with a restricted scheme of proportional representation for Parliamentary elections.

Technical Education (Law of July 25, 1919).—Reorganises technical, industrial, and commercial teaching.

Marriage (Law of August 9, 1919).—This law introduces a series of minor provisions designed to simplify the formalities of marriage, remarriage of divorced persons, and evidence of marriage in the form of certificates. Hitherto a certificate of marriage was not indefeasible proof unless it bore the authentication of the President of the Court. Under the provisions of this law, it is sufficient that the certificate should bear the signature and the seal of the officer who delivers it (Article 45, Civil Code).

Article 63.—It will not henceforward be necessary to mention the name of the father and mother of the parties in the advertisement of the marriage.

Article 64.—Hitherto the marriage could not be celebrated until after a period of ten days after the publication, which must include two Sundays. The restriction that this period should include two Sundays is now removed.

Article 75.—Provision is made for celebrating the marriage at the house of one or other of the parties, in case through serious impediment one or other of the parties is unable to attend at the Mairie, by permission of the Public Prosecutor, and even without his permission if one or other of the parties is in danger of death. The same article now provides that any discrepancy in names or spelling can be rectified on the spot in case

this proceeds from error or omission. Formerly a special judicial proceeding was requisite for this.

Article 76.—Henceforward requires that the names of the preceding husband or wife of the parties, if any, with the dates of their death or divorce, should be entered upon the marriage register.

Article 151.—Now provides that in the case of persons between the age of twenty-one and thirty marriage can take place fifteen instead of thirty days from the date of the formal demand for the consent to the marriage of those persons whose consent is required.

Article 173.—Prior to this law, a father who was hostile to the marriage of his son could oppose the marriage and carry the case through the Courts. Assuming that the son prevailed and the opposition was removed, the mother or a grandparent could begin the same proceeding over again and thus delay the marriage inordinately. *Article 173*, modified by the law under consideration, removes this possibility by providing that when once an opposition to the marriage has been removed no further opposition can be entertained.

Article 228.—Provided that a wife could not contract a new marriage before the expiration of ten months from the dissolution of her prior marriage. This period has now been altered to 300 days, the maximum period of gestation.

Article 296.—A divorced wife could only marry after the transcription of the decree provided 300 days had elapsed since the first judgment, interlocutory or final, rendered in the case. In the large majority of cases there was no interlocutory judgment, so that this meant 300 days final decree. This has now been altered to 300 days after the date of the order rendered at the outset of the suit authorising the parties to live apart.

Cessation of Hostilities (Law of October 23, 1919).—Defines the Cessation of Hostilities in respect of all laws, decrees, regulations, and contracts, as the date of the promulgation of that law in the *Journal Officiel*, that is to say October 24, 1919, without any distinction as to the particular expressions which may have been used to describe the duration of hostilities or their cessation.

Mines (Law of September 9, 1919).—Under the regime of the law of 1810 a mine formed part of the surface ownership but could not be worked except by permission of the Government. This permission amounted to the grant of a perpetual concession transferable at will. A law of 1911 subordinated the right to transfer a concession to the consent of the Government. The present law gives the State far wider control over mining property. Mining concessions in future will only be granted for a limited time and on condition of participation both of the State, on the one hand, and the personnel of the mine on the other, and upon conditions laid down in the *Cahier des Charges* annexed to the decree granting the concession. At the expiration of the concession the mines revert to the State. The duration of the concession for coal or lignite is 99 years, for other minerals 50 years. If the State has not notified its decision as to the renewal of the concession before the twenty-fifth year preceding the end of the concession, the concession is renewed automatically for a further twenty-five years. The land, buildings, works, machinery, apparatus, of all kinds, used for the working of the concession, in case of reversion to the State, also revert to the State without indemnity.

6. ITALY.

[Contributed by PROFESSOR MARIO SARFATTI, *University of Turin*.]

The year 1919 was a notable one in Italian legislation, both on account of the number of measures passed and of the subjects treated, although the activity of the Parliament itself was not very vigorous. In place of it was substituted the Government with its own decrees, which were at first Viceroyal and later Royal, with the cessation of the Viceroyship.

Remarkable in a special way are the decrees on enforcement of foreign judgments on the capacity of married women, on the contract of private employment, and on different kind of insurances.

The first distinction which may be made is that between decrees (a) due to the European War; (b) due to the victorious cessation of the state of war, and (c) pertaining to matters upon which the war had no influence.

Adoption (Decree No. 1,357, July 31).—Special rules are given for the adoption of war orphans and for children born out of wedlock during the war.

Barristers and Solicitors (L. Decree No. 577, April 13).—The term of legal practice is shortened for those who did military service during the war (L. Decree No. 592, April 13).

Maternity Benefit (L. Decree No. 2,301, November 20).—The reimbursement of the greater part of the expenses is granted to those institutions which provide for assistance to lying-in women, and to early infancy in the war zone.

Contraband of War (L. Decree No. 937, March 29).—The list of articles and material considered as absolutely prohibited during the war is modified.

Agrarian Credit (Ministerial Decree, August 12).—Government grants are granted to the countries damaged by the war.

War Damages.—Numerous decrees deal with the subject of war damages, as to the value of real estates destroyed, the higher cost of reconstruction (Ministerial Decree, March 13), as well as the approval of the Consolidated Act on Compensation (L. Decree No. 426, March 27); the appointment of commissions for the verification of damages (Royal Decree No. 1,336, July 20; Royal L. Decree No. 2,281, November 13); for the regulation of the Government Committee (Ministerial Decree, August 27, August 31).

War Badges (Royal Decree No. 800, May 24).—A badge of honour is instituted for the mothers of men killed in the war.

Food Prices.—Numerous decrees regulate the price and the distribution of cod (L. Decree No. 2,032, December 12), tunny (Ministerial Decree, June 16), oil (Ministerial Decree, June 18), coke (Ministerial Decree, March 28), and cereals (Royal Decree, No. 1,307, July 31).

Exportation and Importation.—Many decrees regulate the importation and exportation of numerous articles, especially marble (L. Decree, No. 195, February 6); the importation of foreign money (L. Decree, No. 479, April 2), of Austro-Hungarian paper money (Ministerial Decree, April 6 and 29), of Russian paper money (Ministerial Decree, April 27), the importation into the Ottoman Empire and into other countries (Ministerial Decree, April 30), and importation of bills of the National Debt of Foreign States (Ministerial Decree, No. 776, May 18).

War Invalids (L. Decree No. 374, February 16).—Provision is made to give posts to war invalids without undergoing an examination.

Housing.—On account of the scarcity of houses, due to the cessation of building during the war, the expiration of leases has been suspended of those houses whose rent is below 1,800 francs per annum in towns of not more than 100,000 inhabitants; below 2,400 in towns of 200,000 inhabitants; below 4,000 in the other towns. The power to raise the rent is limited during this suspension; tenants have the right to a prolongation of their lease till July 31, 1921, but are obliged to give notice a month beforehand, by means of a registered letter, if they do not wish to avail themselves of this postponement. In case of opposition on the part of the landlord, the latter can address himself to an arbitration commission. The increase in the rent may vary between 10 per cent. and 20 per cent. (L. Decree No. 370, March 27). For the lease of premises to be used as shops, the same suspension is decreed, but then the increase in the rent may reach the fourth of the total actually paid (L. Decree No. 369, April 24; Royal Decree No. 1,514, August 15).

Amnesty (Royal Decree Nos. 157, 158, 159, February 21).—Amnesty is granted for offences military and non-military.

General Viceroyship (Royal Decree 1,082, July 6).—From this date the General Viceroyship ceases.

Passports.—The departure from the kingdom is regulated by Ministerial Decree, March 30, and the entrance into it by Ministerial Decree, September 26.

Subjects of Enemy Countries.—Trade is authorised with the Ottoman Empire and with Bulgaria; Czecho-Slovakia ceases to be considered as an enemy country (Pres. Con. Decree, February 23). Commerce with the late enemy countries is authorised (Pres. Con. Decree, May 19), the Black List is abolished (L. Decree, No. 944, May 8).

Occupied Territories.—A series of enactments regulate the relations with the territories occupied, following the Armistice, giving rules for political relations (Sup. Com. Ord., February 14); for financial relations (Sup. Com. Ord., February 28, May 3, 10, 22); and for judicial relations (Sup. Com. Ord., March 22, 23, 31; April 2, 21, 25; May 16).

Army.—Numerous decrees regulate the gradual reduction of the Army, and the career of the officers and the non-coms.

The Press.—By Royal Decree No. 1,021, June 29, the censorship of the Press is abolished.

Insurance against Old Age and Sickness (L. Decree No. 603, April 21).—Insurance is obligatory for all persons, of both sexes, between the ages of 15 and 65, and who are employed by others in the following capacities: (1) Workmen, help-boys, apprentices, assistants, clerks, superintendents, and clerks in industries and in commerce, in agriculture, including hunting and fishing, in public services, liberal professions, including masters and mistresses, private tutors, and those who work at home for other people; (2) domestic servants. Foreigners are subject to the same regulations, provided that reciprocal agreements are in operation with their State. Compulsory insurance is not applicable to employed persons whose monthly payment is above 350 francs.

Insurance against Unemployment.—The L. Decree No. 2,214, of October 19, dictates the rules for the insurance against unemployment, entrusting the direction and the co-ordination of them to a special national office, and regulating the finding of situations by means of provincial and communal registry offices. The twenty-fifth article subjects to unemployment insurance workmen and workwomen employed

by others and not receiving fixed wages or payment by piece-work, also dependents not of the working-class in private concerns, who receive payment not above the maximum fixed for obligatory insurance against old age and infirmity. The contributions are to be paid equally by the employers and the employed. The payment for unemployment is a daily subsidy calculated according to the contribution paid, and in no case above the half of the daily earnings.

Banking.—The Royal Decree No. 1,620, of September 4, regulates the opening of branches of foreign banks in the kingdom. Request must be made in writing to the Minister of the Treasury, enclosing the Memorandum of Association and the Prospectus, and stating the amount of capital to be allowed to that special branch.

Within three months after the communication of the decree of authorisation the foreign bank must comply with the requirements contained in Art. 230, 231, 232 of the Commercial Code, and provide for the registration of the Deed of Constitution, after which the aforesaid articles give it the same status as the national societies.

Enforcement of Foreign Judgments.—There has been in force a liberal provision contained in Art. 941 of the Code of Civil Procedure, which demanded only the examination of the competence of the judicial authority on the regularity of the summons, on the legal appearance or the non-appearance of the parties, on the respect of public order and the public internal law. No other State has followed this system, and as there is thus no reciprocity the law has been modified by Royal Decree No. 1,272, July 20, so that to give executive force to foreign judgment it is necessary to acknowledge: (1) that the judgment was pronounced by a judicial authority competent to adjudicate upon the controversy according to the general principles of international law, with special regard to the preliminary chapter of the Civil Code, when judgment has been pronounced against an Italian citizen; (2) that the judicial authority is competent to decide the controversy, according to the law of the territory where the sentence was delivered; (3) that the summons was served in conformity with the laws of the territory where the judgment was delivered and that in it was allowed sufficient time for appearance, in relation to the distance and other special circumstances; (4) that the parties had entered an appearance, according to the laws of the territory, or their non-appearance had been ascertained and validly declared, in conformity with the aforesaid laws; (5) that the judgment had become irrevocable and actually in full executive force, according to the legislation of the country in which it was pronounced; (6) that the judgment be not contrary to any other pronounced by an Italian authority; (7) that no suit be pending before any Italian judicial authority for the same object and between the same parties, at the time at which the demand for the execution was notified.

Married Women.—Art. 134 of the Civil Code enumerates the deeds which a married woman could not execute without marital authorisation, and the following Art. 135-7 determined the case in which the authorisation was not necessary. Art. 1,106 included among those incapable of making contracts a married woman; Art. 13 of the Commercial Code demanded the consent of the husband, in order to carry on a trade; and Art. 799-805 of the Code of Civil Procedure regulated the judicial authorisation necessary to a married woman for whom marital authorisation was unobtainable.

All these dispositions are done away with by the Law No. 1,176, July 17, which confers full legal capacity on a married woman.

Moreover, Art. 7 allows a woman the same right as a man to practise any profession and to occupy any public situation, except those which involve public jurisdictional power, or the exercising of political rights or authority, or those which are inherent to the military defence of the State.

Emigration.—With the application of the Consolidated Act by Royal Decree No. 2,205, November 13, the legal protection of emigrants is regulated.

The Royal Guards.—The Royal Decree No. 1,790, October 2, institutes the corps of the Royal Guards, reorganising in this way the maintenance of the public safety according to the most modern conceptions.

Private Employment.—Private employment had not been regulated by special law. The L. Decree No. 112, February 9, gives the definition in Art. 1 : “ The contract for private employment, by which in the present decree is meant when a company or a private person carrying on a concern takes into his service, normally for an indefinite period, the professional services of the other party named in the contract, with the duty of collaboration, excluding, however, simple handiwork.” The term of giving notice is fixed in various ways, according to the years of service and the kind of employment, at a minimum of 30 days to a maximum of 6 months, besides an additional month for one who has reached the right to the maximum. It anticipates the case of interruption of work through infirmity or illness, and obliges the employer to keep the post free for a maximum of 3 months. It grants a holiday of 10 to 20 days in the year with continued pay ; it forbids the employee to work in competition against his employer. For disagreements it provides, for those below 300 francs, a special commission of the Chamber of Commerce ; for the others an arbitration committee.

International Commerce.—The Royal Decree No. 2,013, October 2, appoints a special institute to regulate international commerce, simplifying the offices which before were occupied in this matter at the various Ministries.

Public Education.—The L. Decree No. 82, January 5, institutes in the Commission of the Superior Council a section for intellectual relations with foreign countries to exchange ideas : (a) on the interchange with foreign countries of professors of universities and secondary schools, of university assistants and librarians, of students and of those the value of whose studiousness is acknowledged ; (b) on the foundation of institutes of superior culture in foreign countries.

The section studies and proposes to the Minister of Public Instruction all those initiatives which are directed toward facilitating the intellectual relations of Italy with foreign countries.

The Crown Lands.—The Royal Decree No. 1,792, October 3, modifies the royal demesne through the munificent act of the King himself, who willingly renounces castles and palaces distributed in different parts of the country to be destined to aims of public utility, with special regard to the heroic veterans and to the sons of the fallen.

Tripolitania.—The Royal Decree No. 886, May 17, provides for the constitution of two separate governments for Tripolitania and Cirenaica, each one ruled over by a Governor, having respectively their seats in Tripoli and in Bengasi.

7. JAPAN.

[Contributed by R. MASUJIMA, ESQ.]

In reporting the annual legislation of Japan some description of the legislative machinery and its working should be given in the interest of accuracy and intelligent understanding. The Constitution provides in Article 5 that the Emperor can exercise his legislative power with the concurrence of the Parliament, and Article 6 empowers him to sanction the legislative act and order its promulgation and execution. The Emperor can, as provided in Article 9 of the Constitution, exercise his power to issue ordinances for putting a law into execution, or maintaining peace and order, or advancing the happiness and welfare of his subjects. His Majesty, as provided in Article 8 of the Constitution, has the power of issuing such urgent orders having the force of law as may be deemed necessary for the maintenance of public order or the prevention of national calamity while the Parliament is not in session, but such emergency measure cannot become a permanent legislative act unless approved by the Parliament at its next session, and its non-approval voids the measure. The fundamental principles of Japanese legislation are embodied in these Articles of the Constitution. Japanese legislation is thus carried on by the promulgation of laws or orders or ordinances to provide the machinery required for the government of the Japanese State. Every piece of legislation passed by the House of Parliament is promulgated after the formal sanction by the Emperor as an Act. This sanction bears the Imperial sign-manual, and is countersigned by the Prime Minister and other members of the Cabinet.

The Japanese Parliament does not sit throughout the year, as does the British Parliament. The people's representatives elected to Parliament are summoned to attend the House once a year by order of the Emperor for a period not exceeding three months—the limit of time prescribed by the Constitution—generally in the months of December, January, February, and March. They may be summoned for an extraordinary session after dissolution of the House, or on occasions of emergency. But the duration of legislative activity does not exceed on an average forty days for every ordinary annual session. The legislative machinery is, therefore, at rest except for this annual session, and no legislative function can be exercised at any time during the year as in the case of the British Parliament.

The occasional inconvenience arising from the short annual sitting or curtailment of the legislative session is met by the issue of Imperial ordinances referred to above, bearing the Imperial sign-manual countersigned by the Prime Minister and other members of the Cabinet. These are ordinances which can be issued at any time: they have the full force of law, and no actual inconvenience is felt in the work of the government of the State. Further, Ministers of State or Governors-General of dominions overseas have the power to issue their own departmental regulations and notifications for the execution of Imperial ordinances.

All these mandates and the distribution of these legislative and quasi-legislative powers, together with the urgency legislation already explained, are the peculiar features of the Japanese legislative machinery, as would appear at least to those accustomed to the idea of the British Parliamentary system.

Coming to the legislation of the year 1917, the Parliament was opened

on December 27, 1916, and closed on March 26, 1917. The actual number of days during which the Parliament sat was only a little over two months, as it is closed for the New Year holidays as soon as the Imperial Rescript convoking Parliament and the replies of both Houses were read and adopted. This was the Fortieth Session of the Japanese Parliament, which was first organised and summoned to sit in the year 1889. The session of 1916-1917 served the purpose of passing laws and determining financial Bills to enable the Terauchi Cabinet to carry out its policy and the measures necessary for its purposes.

The number of Bills passed during the Parliamentary Session was only 43, and financial measures absorbed a considerable portion of the Session's work, and there was not much time left for the House to employ its energy in other matters, as is the case every year on account of the period for which the Parliament is summoned being limited to about three months.

- (1) Sixteen Bills aiming at increasing the income of the Treasury ;
- (2) Eight Bills asking authorisation for extraordinary expenditures ;
- (3) Four Bills relating to the government of self-governing local districts ;
- (4) Two Bills relating to currency and coinage ;
- (5) One Bill relating to encouragement of industry ;
- (6) Four Bills relating to railways ;
- (7) Three Bills relating to judicial affairs ;
- (8) Four Bills relating to military matters ;
- (9) One Bill relating to explosives.

The main features of some of these Bills may be outlined.

As to Bills for the purpose of increasing the revenue :

The Government's issuing powers of Exchequer Bills were extended from 200,000,000 yen to 500,000,000 yen. Rates of income tax, sake tax, tax on beverages containing alcohol, and beer tax were raised.

A new tax was imposed on war profits, particularly on individuals or corporations benefiting by earnings on the sale of ships, mines, and gold dust, the rate charged being, in the case of corporations, 20 per cent. of the profit made in excess of 20 per cent. of the capital invested, calculated on the basis of profits during two years prior to the war, and, in the case of individuals, 15 per cent. of profit made over 20 per cent., calculated on certain annual averages. These laws were limited to those times during which the war continued, and were to lose force at its termination.

The powers of semi-government banking institutions, such as the Japan Industrial Bank, the Japan Hypothec Bank, and the Bank of Taiwan, were enlarged by increasing their guarantee funds or by extending the scope of their business, enabling them to make loans with greater facilities to wider circles or classes of borrowers in order to encourage industry and the means of transportation, such as ship-building, railways, etc.

A law was passed authorising the sale of bonds and debentures by instalments, by which small investors and the public generally are encouraged to invest in these securities.

Part of the national expenditure for the conduct and maintenance of the elementary school was taken over by the central authorities instead of being borne by the local authorities, as was hitherto the case, and the salaries and pensions of teachers and professors of Government schools and Imperial universities were increased.

Powers were transferred from prefectural governors to city mayors for effecting improvements in three important cities, namely, Tokio, Kyoto, and Osaka.

A law for mutual assistance in the application of laws, which may be different in different jurisdictions, e.g. Japan proper, Korea, Formosa, and Manchuria, was passed. By this means, conflict of laws is avoided, the registration of personal status unified, company laws made applicable in common, the validity of notarial and other official documents mutually cognisable, criminal punishment and the effects thereof made uniform, and the judicial system of the whole Empire unified.

The Military Service law, which previously exempted all students attending institutions regarded as above middle-school grade from medical examination for military service until after they were 27 years old, was modified; the new law makes the medical examination compulsory on attaining the age of 20 years. By this examination, individual fitness is determined, and the services of those who reside abroad is postponed until after they are 27 years old instead of 32 years as hitherto.

The law for subsidising army motor transport vehicles provides subsidies for persons or companies making motor trucks and using them, the Government reserving the right to requisition them for use in time of war.

The Industrial Mobilisation law gives the Government powers to control, use, or appropriate, wholly or in part, those private factories which make or repair war materials, and also to command the services of those who will be required to engage in the manufacture, repairing, or transportation of war material as circumstances may demand, the authorities being empowered to issue in peace times necessary orders for such purpose, as inspecting of factories or calling for reports of workings.

Two Emergency measures previously issued were approved during the fortieth session of Parliament, namely, Bills for the making and circulation of paper money of small denominations, and for Government control of privately owned ships. The object of the former is to substitute paper notes of ten, twenty, and fifty sen for auxiliary coins, to facilitate petty transactions, such as the payment of wages of labourers. The latter law compels those who sell, hire, or hypothecate ships, or deliver up their possession, to apply for the permission of the Minister of Communications; the Minister is clothed with the power to settle rates of freight, to designate routes of navigation, or to specify cargo or passengers to be carried in ships, as also to forbid transportation of certain cargo or passengers.

Two Emergency measures were passed during the fortieth session, namely, a law authorising the authorities to requisition rice and other cereals, for which purpose the Minister of Agriculture and Commerce was empowered to appropriate and sell these staples at such rates of compensation as may be determined by him, the object being to adjust the supply and demand of these articles. The order was not approved by the Parliament at the next session.

A law for exemption from import duties or reduction thereof in the case of rice and other cereals imported. This law was approved in the forty-first session of Parliament.

Imperial ordinances passed during the year 1917 numbered 403. Of these, 202 related to changes in organisation of Government offices and salaries of officials, while others related (1) to exemption of import

duty on rice to secure a sufficient supply of the staple ; (2) the application of industrial mobilisation over Japan Proper, and Chosen, Formosa, Saghalien, and Kwangtung Provinces, besides official organisation relating to the execution of the law ; (3) the equal treatment of universities of private foundation compared with those of Government foundation ; (4) the taking of a census to be completed on the first day of October 1920.

Different departments of the Government, and the Governments of Chosen, Formosa, and Kwangtung Provinces, issued 254 departmental orders. In the same period several thousand notifications or regulations were issued relating to matters within their cognisance.

8. NETHERLANDS.¹

Peat and Brown Coal Supply.—Act of January 11, 1919, *Official Gazette*, No. 9, contains provisions in the interest of the peat and brown coal supply. Expropriation of real property at short notice by the State is authorised in the interest of this supply.

Education.—Act of January 11, 1919, makes provision with respect to the value of Colonial Secondary Schools' Leaving Certificates, and ranks them with Leaving Certificates issued by Secondary Schools with a five years' course in the Netherlands (*Official Gazette*, No. 19).

Act of January 21, 1919 (*Official Gazette*, No. 49), establishes an Education Council, to advise the Minister of Education on all questions of a general nature, relating to the various kinds of schools under the care of his department.

Act of July 14, 1919 (*Official Gazette*, No. 493), modifies the Elementary Education Act. Contains changes in the scale of salaries for teachers, and in the provisions regarding the share of the expenditure borne by the State.

Act of October 4, 1919 (*Official Gazette*, No. 593), makes provision with respect to Industrial Education.

Public Health.—Act of July 25, 1919 (*Official Gazette*, No. 524), makes provisions to prevent the sale of meat and of delicacies containing meat injurious to the public health.

Act of September 19, 1919 (*Official Gazette*, No. 581), makes provision with respect to the inspection and description of foodstuffs.

Act of September 19, 1919 (*Official Gazette*, No. 582), makes provision with respect to the granting of money for the construction of waterworks, and the granting of advances from the Treasury to provincial and municipal authorities.

Act of October, 1919 (*Official Gazette*, No. 592) prohibits the manufacture, handling, importation, and exportation of opium and other narcotics, except by certain specified classes of persons.

Act of November 27, 1919 (*Official Gazette*, No. 784), makes provision with respect to the State inspection of public health, establishing a Council of Health, Health Inspectors, and Health Committees for municipalities containing more than 18,000 inhabitants.

Shipping.—Act of November 4, 1919 (*Official Gazette*, No. 645), provides for the construction of canals to Twenthe, linking up Twenthe with the Upper Rhine, and improving the connection by water of Zwolle with the River Ysel at Katerveer.

¹ Contributed by the International Intermediary Institute.

Taxation.—Act of July 25, 1919 (*Official Gazette*, No. 513), establishes a tax on playing cards.

Penal Code and Penal Procedure.—Act of April 11, 1919 (*Official Gazette*, No. 173), modifies the 8th Chapter of the Code of Penal Procedure.

Act of April 11, 1919 (*Official Gazette*, No. 174), prohibits the admission of youthful persons to the public sessions of Criminal Courts (insertion of Art. 149, sub. iii in the Code of Penal Procedure).

Act of June 7, 1919 (*Official Gazette*, No. 311), contains provisions facilitating the prosecution of receivers of stolen goods by modifying and amplifying the provisions on this head in the Penal Code.

Post Office.—Act of July 14, 1919 (*Official Gazette*, No. 492), modifies and supplements the Act on the carrying of letters, and Article 4 of the Parcel Post Act, Increase of Postage, etc.

Loans.—Act of June 6, 1919 (*Official Gazette*, No. 280), authorising a loan for the benefit of and chargeable to the Dutch East Indies, to the amount of 18 million florins.

Ministry of Education.—Act of February 21, 1919 (*Official Gazette*, No. 48), makes provision with respect to the establishment of the Ministry of Education, Arts, and Sciences, and of the Ministry of Labour.

Unemployment.—Act of October 31, 1919 (*Official Gazette*, No. 620), makes temporary grants to societies with unemployment funds.

Old Age Insurance.—Act of November 4, 1919 (*Official Gazette*, No. 628) regarding voluntary old age insurance, specifies conditions on which workmen and persons in equivalent economic conditions can effect insurance with the State Insurance Bank.

Labour Laws.—Act of November 1, 1919 (*Official Gazette*, No. 624), restricts the hours of labour and protects workers in dangerous industries. No workman is to be younger than 14 years of age. Provision is made for protection in dangerous work, married women and youthful workers, and in respect to Sunday labour. It introduces a free Saturday afternoon, and regulates the hours of labour per day and per week. Article 24: Work performed in factories and workshops by one workman is not to exceed 8 hours per day and 45 per week, and is not to commence earlier than 7 o'clock a.m. and not to continue later than 6 o'clock p.m. There are exceptions to Article 24 for special kinds of labour.

Public Security.—Act of June 7, 1919 (*Official Gazette*, No. 311), contains provisions relating to firearms and ammunition.

Act of June 29, 1919 (*Official Gazette*, No. 413), modifies the Landsturm Act, by requiring voluntary service with the Landsturm also in normal times.

Act of June 27, 1919 (*Official Gazette*, No. 4144), contains demobilisation provisions, enabling Landsturm soldiers to remain in the army, with scale of pay and allowances.

9. NETHERLANDS EAST INDIES.

Legislation in the Dutch East Indies during the year 1919 was chiefly devoted to:

The Legal Status of the Population.—A Royal Proclamation in the *Official Journal* for the Dutch East Indies of 1919, No. 816, has at last fixed the date for the coming into force of the Acts of December 31, 1906,

¹ Contributed by the International Intermediary Institute.

Official Journal, 1907, Nos. 204 and 205, for the amendment of Articles 75, 85, and 109, and for the repeal of Article 86 of the Government of the Dutch East Indies Act, as amended and supplemented by the Acts of June 6, 1919, *Official Journal*, 1919, Nos. 621 and 622. These amendments came into force on January 1, 1920. Two of them are of special importance, viz. first, Article 75, which contains the fundamental rules upon which the private law, for the various groups of the population in directly governed districts is based, and to the amendment of which the desire for unification of the legislation for these groups of the population has served as a basis; and secondly, Article 109, which, in connection with the existing difference in legislation for the different groups of the population, gives rules to determine the law to which each of these groups is subject.

In anticipation of the completion of the draft unification of the criminal procedure and the organisation of the Courts, which is planned provisionally only for Java and Madura, and in order to meet the objections that have arisen against the existing stipulations concerning *preliminary detention and the searching of houses and documents*, there have been laid down, with regard to Java and Madura, by a Royal Proclamation in the *Official Journal* of 1919, No. 698, regulations which submit, in these respects, all groups of the population to the same law, and keep the exercise of the far-reaching powers of the authorities within fitting limits. Owing to this, an end will be put to a system which submitted the natives to a practically unlimited authority as regards provisional arrests and the searching of houses.

In those regulations are new stipulations concerning the *authority of the Courts over the suspension of preliminary arrests or provisional custody, whether on deposit of bail or otherwise, and the introduction*, by the judges sitting daily, of *summary proceedings*, for some light misdemeanours of frequent occurrence, in the event of discovery red-handed. These stipulations, however, have not yet come into force.

The Governor-General is empowered to amend the regulations concerning criminal and civil procedure in the outside districts, in accordance with the said provisions.

The old Article 3 of the Government of the Dutch East Indies Act, an article, dating from 1854, pursuant to which associations and meetings of a political nature, or owing to which public order might be disturbed, were forbidden, and which had been for many years a powerful deterrent to the free political evolution of the population in the colony, had gradually become a dead letter, under the irresistible force of a rapidly awakening political life since the beginning of the twentieth century. The Act of May 8, 1915 (*Official Journal*, 1915, No. 542) introduced a new Article 3, in which the *right of the inhabitants to form associations and to meet was recognised*, with the addition, however, that the exercise of that right should be regulated in the interests of public order, and limited by a general regulation. Until recently that regulation had not been put in force. In 1919, however, it was enacted that the new Article 3, together with the regulation, should come into force on September 1, 1919 (*vide Official Journal*, 1919, Nos. 27, 562, and 561).

According to the said regulation the establishment of associations is left perfectly free, with this understanding, that *subjects of the Netherlands alone may become members of political associations*. Associations the existence or purpose of which is kept secret are illegal, as well as those

which may be declared to be contrary to public order by the High Court of Justice of the Dutch East Indies. The procedure to that end, subject to the necessary guarantees for public hearing and a prompt and good judgment, is regulated by order (*Official Journal*, 1919, No. 331). The right of meeting is, as a rule, free to everyone, provided that public order is not disturbed and nothing be done contrary to certain stipulations. According to these stipulations public meetings in the open air and, under certain circumstances, also meetings for the purpose of exercising in the handling of arms, are forbidden, unless permission has been granted before by the head of the local administration. As a rule the bearing of arms at public meetings is illegal. On further consideration, the Crown has considered it necessary to order (Royal Proclamation, *Official Journal*, 1919, No. 562) that, if there is the menace in any part of the Dutch East Indies of a disturbance of order, an emergency order may be issued, submitting the right of meeting to certain definitely indicated limitations.

Since the coming into force of the orders, published in the *Official Journal* of 1918, Nos. 708 and 709, which put an end to various abuses regarding the requiring of feudal services in the districts of Sumatra's West Coast and Tapanoeli, work has been quickly going on towards the *reduction and lightening of the burden of feudal service upon the population* (at Java and Madura, several years ago, feudal services were practically abolished). No less than three orders regarding feudal service appeared in the year 1919 in the *Official Journal*, viz. first, an order for the district Djambi (*Official Journal*, 1919, No. 51); secondly, an order for the Lampong districts (*Official Journal*, 1919, No. 407); and, thirdly, an order for Palembang (*Official Journal*, 1919, No. 641). All these orders have, with the withdrawal of the former regulations for those districts, considerably lightened and mitigated the feudal services.

In connection with *the further carrying out of a decision of 1915, concerning the gradual rescinding of the Government coffee cultivation at Java*, which has been on the decay for many years, several orders have been issued for the doing away with the *compulsory delivery to the Government of coffee grown by the population*. By these orders, compulsory delivery is abolished in various parts of the districts Madioen, Pekalongan, Semarang, Pasoeroean, and Bezoeki (*vide Official Journal*, 1919, Nos. 5, 202, 631, 724, and 725).

From 1917 onward there have been issued regulations submitting the Chinese in a great part of the Dutch East Indies practically to the whole body of private law to which Europeans are subject, and giving rules for the keeping of population tables for the Chinese. According to an order in the *Official Journal* of 1919, No. 81, all these regulations came into force on May 1, 1919.

An order, published in the *Official Journal* of 1919, No. 150, has repealed an order of *Official Journal*, 1916, No. 150, and *completely annulled for Java and Madura* and the islands belonging thereto administratively the *limiting stipulations with regard to residence for the foreign Asiatics legally residing on those islands*.

A trial will be made with the *system of population tables for the natives by the introduction of that institution for some groups of natives of distinction at Java and Madura*, with reference to which the order of *Official Journal*, 1885, No. 699, has been supplemented by an order published in the *Official Journal* of 1919, No. 699.

By virtue of a Government Proclamation, published in the *Official Journal* of 1919, No. 406, there came into force on September 1, 1919, the new regulation regarding the issue of foreign passports and certificates of identification. According to this regulation, proclaimed in *Official Journal*, 1918, No. 446, persons desirous of leaving the Dutch East Indies can be supplied, at their request, by the Governor-General, with a foreign passport or certificate of identification, according as the applicant is a Dutch subject, or a resident, not a Dutch subject ; provided that the Governor-General is authorised to exclude certain persons or groups of persons from that right, or to make the issue dependent upon certain conditions.

By a Royal Proclamation, published in the *Official Journal* of 1919, No. 2, repealing the old regulation of 1866, No. 27, which had been repeatedly advised, a new description was given of the number and the sphere of the branches of general civil administration in the Dutch East Indies (*vide* Article 64, Government of the Dutch East Indies Act).

Various branches of service were reformed in the course of the year 1919 (People's Credit Institutions, *Official Journal*, 1919, No. 121 ; Government of Outside Districts Office, *Official Journal*, 1919, No. 564 ; Taxation Service, *Official Journal*, 1919, No. 461 ; Rural Revenue Service, *Official Journal*, 1919, No. 451 ; Sale Offices, *Official Journal*, 1919, No. 449 ; Mining, *Official Journal*, Nos. 56, 141, and 338) and the conditions for nomination for some branches of service were further determined (higher posts in the Postal Service, *Official Journal*, 1919, No. 146 ; Government Surveyors, *Official Journal*, 1919, No. 128 ; Veterinary Surgeons in the Civil Veterinary Service, *Official Journal*, 1919, No. 359).

The continued administrative independence of various Government industries is evidence of the steady development of those industries in the Dutch East Indies. Thus, the caoutchouc industry was separated from the service of the Office of Forests (*Official Journal*, 1919, No. 113), and, further, the Boekit-Assam coal mines (*Official Journal*, 1919, No. 198), the gold development in Benkoelen (*Official Journal*, 1919, No. 397), and the Government Printing Office (*Official Journal*, 1919, No. 783) were organised into separate industries.

The proclamation in *Official Journal*, 1919, No. 598, gives an example of increasing administrative decentralisation, namely, the transfer of jurisdiction and obligations from the Director of Finance with respect to various taxation matters, to the Chief Inspector of Finance.

Of the various alterations that have taken place in the administrative splitting up of the territory, it is worthy of mention that, pursuant to the Royal Proclamation in *Official Journal*, 1919, No. 457, the former divisions North-West and South Guinea, respectively, of the residencies Ternate and places belonging thereto, and Amboina, have been separated from those residencies and united to one district under the name of New Guinea, to commence from a date to be determined later by the Governor-General.

Decentralisation.—The Decentralisation Act of 1903 has opened up the possibility of, and led, in steadily increasing measure, to the formation of lower autonomous local councils with financial means of their own. This system has found a special application in the outside districts, where local councils have been called into being, with exclusively or mainly native members. After a number of similar local councils have been instituted at Sumatra (*vide Official Journal*, 1918, Nos. 308, 350, 351,

and 352), the members of which, however, were appointed by the Government, it has now been ordained in *Official Journal*, 1919, No. 64, that the *local council Minahassa shall be created with 41 members, all to become such by election*. The council shall consist of 36 natives, 4 Europeans, and 1 foreign Asiatic. The election regulations are laid down in an Order in *Official Journal*, 1919, No. 65. Further, in the year 1919 two places, Menado and Bandjermassin, obtained a *town council* on the ordinary footing (*Official Journal*, 1919, Nos. 205 and 252), and two towns, Malang and Palembang, got a Burgomaster.

We have an example of the *gradual, little-by-little granting of self-government in a narrower sense to local councils* in *Official Journal*, 1919, No. 493, containing the transfer to town councils of the authority of the members of the European and native School Committees, at places for which those councils have been instituted, and instructions to the Presidents of those councils to take over the Presidency of the said Committees; another example (though this has already been applied elsewhere) is to be found in *Official Journal*, 1919, No. 295, containing instructions to the Town Council of Pematang Sianthar for the carrying out of regulations regarding improvement and pulling down of buildings likely to spread the plague, and concerning the requirements to be laid down for the establishment of new buildings, with a view to the danger of plague.

On January 1, 1919, the order, published in *Official Journal*, 1918, No. 663, and containing *new regulations for the collection of local direct taxation*, came into force.

Water Unions.—Pursuant to the Act of July 24, 1918, *Official Journal*, 1919, No. 49, an eleventh chapter has been inserted in the Government of the Dutch East Indies Act. This new chapter contains only one article (145), which opens the *possibility to entrust*, according to rules, to be laid down by order, *the care of the interests connected with the irrigation and watering of fields, to special local Unions, duly incorporated, and called Water Unions* ("Waterschappen"), to which may also be given, by order, power to issue general orders and to impose taxes. Down to the present this regulation has not been carried out.

Native Government.—In spite of the principle sanctioned by Parliament in 1854 (Article 67, Government of the Dutch East Indies Act) that, as far as possible, the population should be left under the immediate guidance of their own chiefs, nominated by the Government or recognised as such, under supervision of the European Government, the practice of Government, under the press of circumstances, had become so formed that the European Government officials did not confine themselves to that supervision, but took upon themselves the immediate leadership, whence the task of the native governing officials was reduced to a mechanical carrying out of their measures. Altered circumstances had given rise, since 1912 already, to letting the reins loose; the old principle, however, awoke to new life in the Proclamation published in *Official Journal*, 1918, No. 674, by which, in the areas considered capable thereof, at Java and Madura, a gradual transfer has been planned of a number of powers formerly belonging to the European and higher native Government officials to the Regents and the lower native Government officials under the guidance and council of the European Government; this is the *so-called relief of guardianship of the Native Government*. Immediately the department Tjandjoer (Preanger regencies) was considered ripe for this experiment, while, pursuant to *Official Journal*, 1919, No. 804,

the department Beora (Rembang Residency) has also been approved for that honour.

Native Municipalities.—By the orders published in *Official Journal*, 1919, Nos. 453 and 814, various regulations have been laid down concerning the governing and other local interests of the native communes in the districts Banka and places belonging thereto, and Palembang. These regulations entrust the administration of those communes, upon a democratic basis, to a native council and head of the community. Both orders, in comparison with the order concerning the Government of the native communes at Java and Madura (*Official Journal*, 1906, No. 83), give a somewhat complicated system of municipal government. The latter order also was revised by *Official Journal*, 1919, No. 217.

Self-governing Native States.—By an order in *Official Journal*, 1919, No. 822, which, according to *Official Journal*, 1919, No. 823, came into force on April 1, 1920, new provisions have been issued concerning the relation of the Government to the *self-governing States*, apart from Java, as far as that relation is subject to the so-called *short declaration* or another document of the same tendency. The relation of those native States to the Government is one of "subordinate union." Speaking generally, the tendency of the "short declaration" is this, that the native States are obliged to submit unconditionally to all regulations and orders of the Dutch East Indies Government.

By order published in *Official Journal*, 1919, No. 61, has been laid down a *regulation for the self-governing States in the districts outside of Java and Madura*. It covers only the leasing of grounds for the benefit of persons subject to European Civil Law. The order will be introduced gradually. *Official Journal*, 1919, No. 821, contains a list of the districts where it has come into force already.

Financial Matters.—The Act of June 6, 1919, *Official Journal*, 1919, No. 327, authorises the Minister for the Colonies to *conclude a loan of f.180,000,000 at the rate of 6 per cent. per annum, on behalf and for account of the Dutch East Indies*.

Pursuant to an order published in *Official Journal*, 1919, No. 511, containing provisions *in the interest of the circulation of silver coins*, in connection with the shortage of this legal tender for trade, everyone who is in possession of an amount of more than f.500 of the said coins is bound to give notice of this fact, and, if required, to offer the surplus for exchange to the authorities. In connection herewith may be mentioned also an order published in *Official Journal*, 1919, No. 408, which authorises the Government to issue currency notes of f.2.50 and f.1 up to a value of five million guilders at the most for each sort, and under condition that the withdrawal thereof shall be proceeded to as soon as sufficient silver money shall again be available. Finally, the *charging or paying of a premium when exchanging legal tender*, as well as the taking or giving of less than the nominal value when payment is made with currency notes, were declared to be illegal by order, published in *Official Journal*, 1919, No. 665.

An order published in *Official Journal*, 1919, No. 613, *extended the term laid down for the conversion of coinage* (the exchange of dollars, cents, and so-called "duiten") still in circulation in the western section of Borneo.

An Act of December 20, 1918, *Official Journal*, 1919, No. 177, ratified *an agreement concluded between the Government and the Directors of the*

Netherlands Trading Co. (Handelsmaatschappij) for the sale in Holland of the products obtained from agriculture and mining, on account of the Government of the Dutch East Indies. The agreement was made for the duration of one year and lasted until the end of 1919.

Legal System.—Of the numerous regulations in this sphere—of which some have already been mentioned in other connections—attention may be drawn here to the *revision of the regulations concerning judicial organisation, the provisions for the period of transition following 1848, and the regulation concerning criminal procedure* (all in *Official Journal*, 1919, No. 10). In the latter regulation new stipulations have been inserted with respect to the revision by the European Courts at Java of judgments passed upon criminal cases. This regulation has not yet come into force. A Royal Proclamation of *Official Journal*, 1919, No. 75 and No. 234, provides an opportunity for the *making of shorter sentences in criminal cases, and, consequently, for a prompt handling of cases.* Finally, *Official Journal*, 1919, No. 107, adds to the so-called "*Inlandsch Reglement*" for Java and Madura *five new articles containing provisions for the execution of judgments, pronounced against one defendant in civil cases.*

Police.—*Official Journal*, 1919, No. 372, contains provisions concerning discipline for the armed police. There was introduced further, in the course of the year 1919, in various districts of Java, a local police, the task of which is to take care for the safety and order of country places, and to strengthen the hands of the authorities.

Agrarian Matters.—It appears from *Official Journal*, 1919, Nos. 210, 248, 257, and 750, that *progress is being aimed at with the return of the so-called private estates to State domains, and that serious efforts are being made to do away with this abnormal form of real estate which, being coupled with peculiar rights of sovereignty, is a curious relic of a colonial period that is long out of date.*

Pursuant to *Official Journal*, 1919, Nos. 17 and 639, the much-discussed *New Land Rental Order for Java and Madura* (*Official Journal*, 1918, Nos. 88 and 214, and 1919, No. 124) *has come into force in various districts.* This order contains provisions for the leasing of grounds by natives to non-natives—a matter which is gaining in significance more and more.

By a Government proclamation, published in *Official Journal*, 1919, No. 802, the various regulations with respect to the *leasing of plots of land belonging to the free Government domains, for short terms, have been combined in one general regulation.*

Military Matters.—Among the numerous regulations on this subject issued in the year 1919, attention may be drawn to the *revision of the regulation of the right of complaint against a punishment imposed under military discipline* (Royal Proclamation, *Official Journal*, 1919, No. 11 and No. 174).

By order, published in *Official Journal*, 1919, No. 748, new provisions have been issued concerning the measures to be taken in the event of war with a foreign enemy or in case of danger of war, in the *interests of the defence of the colony.*

Social Matters.—An important event in the year 1919 was the *opening of a mathematical and scientific department for preparatory higher education at Djogjakarta, with which the foundation was laid for the institution of a higher education as superstructure, of three years' course, beyond the existing course of the schools for more extended lower education which*

adjoin to the lower education of the European, Holland-inland, and Holland-Chinese schools. To this preparatory higher education is entrusted the training of the future students of the Technical University at Bandoeng (opened in the middle of 1920) and the existing higher trade schools in the Dutch East Indies, which are also intended to become Universities, while those who pass the final examination of this new institution are permitted to enter the Universities of the Motherland (for all of this see *Official Journal*, 1919, Nos. 259, 260, 454, and 161).

The *Official Journal* of 1919 mentions further the opening of an agricultural school at Malang, the second school, destined for the training of young people for the lower positions in afforestation and agriculture.

The allotting of an official to the Government Commissioner for Native and Arabian matters, under the title of "*Official for the Supervision of the Education of Native Youths*," is worthy of mention (*Official Journal*, 1919, No. 525).

According to a Government decision, inserted in *Official Journal*, 1919, No. 761, there will be given, for the prisoners in the Central Prison for Europeans at Semarang, lessons in reading, writing, the Dutch and English languages, algebra, mensuration, book-keeping, arithmetic, commercial arithmetic, shorthand, and typewriting. Pursuant to an amendment in the regulations regarding prisons and similar institutions (*Official Journal*, 1919, No. 268, and 1917, No. 708), the prisoners are entitled to require also religious instruction and attendance at religious services, and even instruction in the sphere of theology and philosophy.

Of the numerous committees that have been appointed for the study of all sorts of social questions, attention may be drawn to the committees for the investigation of labour conditions and the relations and conditions in the sugar industry. To these committees special powers of inquiry have been given by orders published in *Official Journal*, 1919, Nos. 105, 106, and 435).

In *Official Journal*, 1919, No. 348, the action of the authorities with respect to vaccination was further regulated. Pursuant to *Official Journal*, 1919, No. 179, the regulation of the Royal Proclamation, published in *Official Journal*, 1913, No. 440, which opens up the possibility of the seclusion of persons suffering from loathsome diseases, begging in public, or in any way taking advantage of their condition to become troublesome to others, at last came into force on May 1, 1919, for the districts Batavia, the Preanger regencies, and Bantam.

As is proved by a number of prescriptions (see *Official Journal*, 1919, Nos. 29, 30, 31, 79, 80, 118, 119, and 293), the reduction of the use of opium is being gradually but firmly proceeded with.

In order to counteract the danger of the injurious influences of bioscope performances, two orders have been issued respectively in *Official Journal*, 1919, No. 377 and No. 742.

Economic Matters.—The law with regard to mining in the Indies underwent an alteration of great importance. By the Act of July 20, 1918 (*Official Journal*, 1919, No. 4) important amendments were introduced into the Mining Act (*Official Journal*, 1899, No. 214). According to these amendments alterations were made also in the Mining Order (*Official Journal*, 1906, No. 437, *vide Official Journal*, 1919, No. 367). Previous to this, in principle, the prospecting for and development of all the minerals mentioned in Article 1 of the Mining Act were open to everyone, after having obtained a licence from the competent authority. Now,

however, a greater share in and more authority over certain minerals has been given to the Government. The minerals, mentioned in Article 1 of the Mining Act, are divided into two groups: (a) those for the acquiring of which concessions may be granted, and (b) *those for which the acquisition of concessions is excluded, viz. coal and its products, mineral oil and its products, and iodine, including the combinations thereof.* In future the second group of minerals may only be worked by the Government itself, or by so-called mixed concerns. On the other hand, Article 8a of the Mining Act, in favour of the prospecting initiative of private individuals, has been enlarged in this way, that, henceforth, it will be illegal to prospect for certain minerals in grounds or districts which have been reserved for prospecting and development by the Government, as well as upon grounds for which a concession has been granted to third parties, or with respect to which an agreement (to be referred to hereafter), as laid down in Article 5a of the Mining Act, has been effected. Concessions for the acquisition of fossilised fuel are not granted. In order to keep alive, however, the desire of private individuals in the undertaking of the often very costly prospecting for these commodities, a reward has now been offered to the discoverers, and in the new Article 5a of the Mining Act the possibility has been created for individuals and companies to enter into contracts with the Government, by which they bind themselves to undertake prospecting, development, or both together, for which purpose in both the last-mentioned cases legal authority is required.

By *Official Journal*, 1919, No. 452, the *Tariff of the Dutch East Indies* experienced a revision under which the existing export duty upon petroleum, petrol, and gasolene was replaced by an export duty for mineral oil and by-products, while a provision was effected concerning the possibility of a return of import duties paid in a special case, according to further provisions, to be laid down by order. The said order is to be found in *Official Journal*, 1919, No. 498.

The *Official Journal* of 1919 further contains a number of orders forbidding the import and export of certain goods or releasing existing prohibitions with respect thereto (*vide* Nos. 1, 39, 82, 144, 273, 307, 495, 632, and 713).

An important prescription was laid down by order, published in *Official Journal*, 1919, No. 781. By virtue of this order, *no interest may any longer be charged upon the sum borrowed in the Government Pledge Offices; a charge may only be made for the cost of the loan*, according to a fixed rate. In this order expression is given to the principle that the community may not apply this kind of institution for the obtaining of profit (*vide* also *Official Journal*, 1919, No. 77).

Among the measures in the interests of food supply in the Dutch East Indies, the most striking are those of the order, published in *Official Journal*, 1919, No. 287, in which, with a view to the anticipated scarcity of food, temporary measures were taken to promote the cultivation of uncultivated land suitable for the growing of foodstuffs. Attention may be drawn further to the Order of *Official Journal* 1919, No. 560, by which the obligation was imposed upon employers on plantations in the outside possessions, where the labourers are on the footing of a coolie contract, to prevent greater quantities of rice from being sold to the workers than the quantities laid down by the Government. It was also in the interest of these measures that there was instituted in March 1919 a central commission for food supply to serve the Government with advice.

By Government Proclamations of 1919, Nos. 90 and 391, *numbers of grounds in the Dutch East Indies have been declared natural preserves*. Nature will be able to develop freely there, without any human interference.

The regulations with regard to collisions and inland collisions (*Official Journal*, 1914, Nos. 225 and 226) have been supplemented by an order, published in *Official Journal*, 1919, No. 155, by which the hydroplane has made its entry into the legislation of the Dutch East Indies.

10. UNITED STATES.¹

This review covers the Acts of Congress passed by the final session of the 65th Congress and those enactments of the 66th Congress available on November 1, and the enactments then available of the State Legislatures which were in session during 1919.

Declaratory Judgments.—The most important legislation of the year affecting the administration of justice is the so-called Declaratory Judgment Act.

Florida (7,857) authorises courts of equity to take jurisdiction of an application for "the determination of any question of construction arising under" a deed, will, contract in writing, or other instrument in writing in which the petitioner claims to be interested, and for a declaration of his rights "whether or not further relief is or could be claimed," and provides that "such declaration shall have the force of a final decree in Chancery." It should be noted that this statute authorises a declaration of the rights of the petitioner only. It is, therefore, no more extensive in its application, and expressly authorises a less comprehensive declaration of the effect of the written instrument, than Section 7 of the New Jersey Chancery Practice Act of 1915 (c. 116). The language of the Florida statute suggests that it was modelled on the English Supreme Court Rule of 1883, which provides: "No action or proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right, whether any consequential relief is or could be claimed or not."

A Wisconsin statute (242) more nearly approaches the practice authorised under the English Act. It authorises "equitable actions to obtain declaratory relief," and provides "it shall be no objection to the maintenance of an action that no consequential relief is sought or can be granted if it appears that substantial doubt or controversy exists as to the rights or duties of parties, and that either public or private interests will be materially promoted by a declaration of the right or duty in advance of any actual or threatened invasion of right or default in duty. The judgment rendered in such an action shall bind all the parties thereto and be conclusive and final as to the rights involved."

In a more lengthy statute, Michigan (S. B. 58) authorises the courts "to make binding declarations of rights whether any consequential relief is or could be claimed or not, including the determination at the instance of anyone claiming to be interested under a deed, will, or other written instrument, of any question of construction arising under the instrument

¹ Extracts from the report of the Committee of the American Bar Association on noteworthy changes in statute law.

and a declaration of the rights of the parties interested." This statute expressly provides that such declarations and determinations may be made on either the law or the equity side of the court, and that if issues of fact triable by a jury develop, such issues may be submitted to a jury in the form of interrogatories. If, after a declaration of right, further relief, based upon the declaration, is necessary or proper, application may be made for such relief. This statute declares that it shall be "liberally construed and liberally administered with a view of making the courts more serviceable to the people."¹

Crimes and Criminal Procedure.—Varying estimates of the death penalty as a deterrent of crime are illustrated in Washington (112) which substitutes life imprisonment for the death penalty unless the jury in addition to its verdict of guilty find, in a special verdict, that the death penalty should be inflicted; in New Jersey (134), which permits the jury as a part of its verdict to recommend life imprisonment, in which case the death penalty shall not be imposed; and in Tennessee (4 and 5), which repeal recent legislation abolishing the death penalty as a punishment for murder in the first degree, and provide, like the New Jersey statute, that the punishment shall be death unless the jury, finding that there are mitigating circumstances, fix the punishment at imprisonment.

The tendency to mitigate harsh punishments is evidenced by Vermont (196, 197), which reduce the maximum punishment for arson and assault with intent to kill from life to 30 years' imprisonment.

New York (414) makes an interesting change in its criminal law by repealing the statute punishing as a crime attempts to commit suicide. It is unlikely that this "crime" will ever be attempted by a person whose mental condition is such as to justify holding him responsible for his acts; and if the attempt at wilful self-destruction fails, the State is hardly justified in attempting to inflict criminal punishment. It is believed that there never was a conviction under this statute. The power to commit to an insane asylum is probably sufficient for the public interest.

An interesting change in the definition of murder is contained in Nevada (248), which provides that murder committed by a convict serving a life sentence shall be deemed murder in the first degree.

Attorneys-at-Law.—Legislative effort to protect the reputation of the profession is manifested in statutes raising the standards, both educational and moral, of requirements for admission to the Bar, and punishing improper practices.

Indiana, by constitutional provision, has heretofore assured "every person of good moral character, being a voter," the right "to admission to practise law in all courts of justice." The Legislature now proposes (239) an amendment to the constitution which will give to the State Legislature power to prescribe the qualifications of persons who shall be admitted to practice. Indiana is now the only State in the Union in which the voter of good moral character enjoys the constitutional right to represent his fellows in courts of law.

The Legislatures have come to the aid of the code of ethics in providing effective punishment for the "ambulance chaser." New Jersey (223) penalises any person not a member of the Bar who solicits the commencement of an action for damages out of which action such solicitor has an agreement to receive directly or indirectly compensation dependent upon

¹ See Art. 14 of Model Rules of Civil Procedure proposed by American Judicature Society, Bull. XIV, p. 53. And see 16 Mich. L. Rev. 69, and 28 Yale L. J. 1.

the amount of the recovery. Oregon (95) goes further and punishes criminally both the person who solicits "any business on account of a claim for personal injuries" and the lawyer who accepts or brings action on a claim obtained through such solicitor. Tennessee (42) specifically includes as a ground of disbarment the seeking-out, by the attorney, of persons having personal injury or other claims, or the employment of runners for such purposes.

Property.—One of the most important statutes enacted at the special session of the 66th Congress is that (Pub. No. 63) declaring all rental property in the District of Columbia to be affected "with the public interest" and requiring all rents therefor and all service in connection therewith and all terms and conditions of use or occupancy to be fair and reasonable. This statute, which is declared to be required to meet conditions growing out of the war, is to be in force for two years. A commission is created to determine either on complaint or on its own initiative what are fair services and conditions of occupancy. Tenants in possession at the time of the passage of the Act are protected against eviction so long as they comply with the terms of their leases or with the orders of the commission. Drastic provision is made for a recovery from landlords of rents charged in excess of those fixed by the commission. The determinations of the commission are subject to appeal for error of law only. Hotels and apartment houses are subjected to a special regulation to enable the commission to fix schedules of rates.

Uniform Laws.—Uniform laws recommended by the Conference of Commissioners on Uniform State Laws have been enacted as follows:

Uniform Flag Act, Maine (158); Washington (107); Wisconsin (113); Arizona (8).

Uniform Partnership Act, New Jersey (212); New York (408); Idaho (154).

Uniform Limited Partnership Act, New Jersey (211); Minnesota (498); Tennessee (120); Wisconsin (449); Idaho (151).

Uniform Warehouse Receipts Tax Act, Texas (S.B. 215).

Uniform Negotiable Instruments Act, Texas (S.B. 211).

Uniform Conditional Sales Act, New Jersey (210); South Dakota (S.B. 142); Delaware (192); Wisconsin (672); Arizona (40).

Uniform Fraudulent Conveyance Act, New Jersey (213); South Dakota (S.B. 143); Delaware (207); Tennessee (125); Wisconsin (470); Michigan (H.B. 173); New Hampshire (63); Arizona (131).

Uniform Cold Storage Act, Tennessee (116).

Uniform Extradition of Persons of Unsound Mind, Wisconsin (277).

Uniform Foreign Probate Act, Tennessee (77).

Uniform Sales Act, Oregon (91); Tennessee (118); Iowa (396); Idaho (149).

Uniform Bills of Lading Act, North Carolina (65).

Uniform Acknowledgments of Written Instruments Act, Tennessee (48).

A number of revision conventions in various States in recent years have demonstrated the inadvisability of calling a convention before ascertaining the actual need for revision. Much of the time of the convention is used in ascertaining the constitutional situation in the State, and in attempting to estimate the need of revision.

Apparently recognising this fact, Pennsylvania (No. 192) creates a commission on constitutional amendment and revision to "study compre-

hensively and in detail the provisions of the present constitution in the light of modern thought and conditions, with especial view to the necessity or advisability of changing or omitting any such provisions, in order to obtain and secure for the people of this commonwealth a form of government best suited to their needs and most conducive to their welfare." The commission is provided with an appropriation of \$60,000, and is required to report to the Legislature of 1921 with drafts of proposed amendments. If, on the basis of this report, the Legislature determines that a revision convention should be called, the delegates to the convention will be provided with information and suggestions which should expedite the convention's work.

Prohibition.—The eighteenth amendment to the Federal Constitution prohibiting the manufacture, sale, and importation of intoxicating liquor has been ratified by more than two-thirds of all the States. The provision that the Federal and State Governments shall have "concurrent power" to enforce it has given rise to doubt as to the relative position and effect of future Federal and State legislation.

Congress (Pub. No. 66) enacted a drastic prohibition law to enforce the Constitutional Amendment, and the War-time Prohibition Act. This Act applies the prohibition to all beverages containing more than one-half of 1 per cent. alcohol.

State enactments purporting to carry out the provisions of the 18th Amendment disclose differences with respect to what constitutes intoxicating liquor. California (61) prohibits beverages containing one-half of 1 per cent. of alcohol and provides that it shall take effect on the day the prohibition provisions of the 18th Amendment become effective. Minnesota (455) expressly declares that it is passed to enforce the Constitutional Amendment and the Federal War-time Prohibition Act.

Maine (235) prohibits beverages "containing a percentage of alcohol which by Federal enactment or by a decision of the Supreme Court of the United States now or hereafter declared renders a beverage intoxicating."

Other prohibition laws, apparently without regard to the Federal Amendment, were passed in a number of States. Texas (H.J.R. 1) proposes a prohibition amendment to the State constitution which expressly declares that, if adopted, it shall be self-operative. This amendment was submitted some days after the Federal Amendment was ratified, but if adopted would become effective some months prior to the Federal Amendment. Several of the States have followed the plan of providing a special officer, in most instances known as the Commissioner of Prohibition, whose duty it is to enforce the prohibition laws. See Nevada (1), Ohio (A.S.B. 162).

Arizona (58) forfeits airplanes as well as more antiquated vehicles used to transport liquor.

Suffrage.—Congress has submitted an amendment to the Federal Constitution providing for woman suffrage as follows: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex." This amendment has been ratified by 19 States.

Constitutional amendments proposing woman suffrage were enacted this year in Indiana (256), North Dakota (S.C. Res. 81), Texas, (S.J. Res. 7), Wisconsin (120), and Iowa (110).

Women were permitted to vote for President by State laws enacted in Wisconsin (5), Minnesota (89), Missouri (S.B. 1), Ohio (H.B. 9), Maine (120), Tennessee (139), Indiana (2), and Iowa (353).

Marriage and Divorce.—Marriage between first cousins or persons either one of whom is feeble-minded is forbidden in Montana (6). The minimum age at which marriage is permitted is fixed at 15 by Missouri (H.B. 27), at 16 by Arizona (18), and at 18 by Tennessee (156).

Provision for alimony without divorce is made in North Carolina (24), which authorises an order for subsistence where the husband deserts or is guilty of conduct which might be ground for a divorce. In a State where divorce is difficult to obtain, this statute permits the wife to secure subsistence out of her husband's property or income without the necessity of either living with him after the conduct complained of, or of divorcing him.

Tennessee (70) adds to the causes of divorce such cruel or inhuman treatment of the husband by the wife "as renders it unsafe or improper for him to cohabit with her."

New York (265) reduces from five to three years the time which must elapse before the court may permit the guilty party in divorce proceedings to remarry.

The question whether an illegitimate child shall succeed to the property of its parent of unsound mind is placed wholly within the discretion of the court by New York (202), which provides that if the marriage be annulled because one of the parties was of unsound mind, the child of such marriage shall be the legitimate child of the parent of sound mind, and the court shall determine whether he shall be considered the legitimate child of the parent of unsound mind.

Tennessee (126) declares that married women are "fully emancipated from all disability on account of coverture" and "the common law as to the disability of married women and its effect on the rights of property of the wife is totally abrogated," except that the husband's courtesy is not abolished.

Missouri (H.B. 171) gives to a married woman the sole right to the earnings of her minor child during any period in which her husband fails to support her.

Legislation Drafting.—Recognition of the need of expert assistance to legislators in the preparation of legislation (urged by resolution of the American Bar Association, founded on the reports of its Special Committee on Legislative Drafting) is contained in the Act of Congress known as the Revenue Law of 1918 (65th Congress, No. 254). A legislative drafting service is created for each House of Congress to "aid in drafting public Bills and resolutions or amendments thereto on the request of any committee of either House." The purpose of the service is to render legal and technical assistance to the members of Congress in translating their determinations of policy into effective statutes.

Oregon (167) creates a legislative reference service consisting of the heads of the departments of law, economics, history, and commerce in the State university, "to conduct research into questions of importance and legislative interest," and Indiana (34) recreates a legislative reference bureau to take the place of a similar service which was permitted to lapse two years ago.

It is noticeable that the expert service to be rendered by the Oregon bureau is wholly different from that required of the service established

by Congress. The purpose of the Oregon bureau is to inform and advise the legislator and thereby to influence his decision respecting questions of legislative policy. The drafting service created by Congress has nothing to do with the decision of policies. Its work begins after the decision by a congressional committee of questions relating to the policy of proposed legislation and is confined to the formulation of a legislative measure which will give effect to the congressional determination.

Wages.—Statutes requiring semi-monthly or other periodical payment of wages have heretofore been limited to public or semi-public employments and corporation employees. Several of the States have this year enacted laws which not only extend the requirement of regular payment to private employments and to individual employers, but also make drastic provision to enforce prompt payment. These Acts generally except from their provisions agricultural labourers but include all others.

Minnesota (175) requires payment of wages due to a discharged employee within 24 hours, and of a quitting employee within five days. Failure to pay is penalised by regular wages for the period of default, but not exceeding 15 days after discharge or after demand following quitting. An employer who tenders promptly all wages due is protected against the penalty if in an action by the employee no greater sum than that tendered is recovered. In such case the employer is entitled to costs. Legislation along these lines was passed in Kansas (221).

Similar provisions penalising by extra pay for limited periods the employer who fails to pay promptly a discharged or quitting employee are contained in California (202), Montana (11), Nevada (71), and Utah (71). These acts go further and make it a misdemeanour for the employer wilfully to fail or delay payment of wages due. They also require payment of wages due to striking employees at the first regular pay day after the beginning of the strike, and in California violation of this requirement is made a misdemeanour. In addition to these provisions respecting the wages of discharged or quitting employees, these Acts require semi-monthly payment of wages.

The Montana Act makes void any provision in an employment contract which violates the Act; but the Utah Act contains a parenthetical exception which prevents its application where by agreement the employer and employee fix other terms of employment than those specified in the Act.

Nevada, in a less definite exception, makes the semi-monthly wage payment provision inapplicable if other terms are "satisfactory and beneficial" to both employer and employee.

Semi-monthly or weekly payment of labourer's wages is required in Wyoming (73) and Connecticut (216) by factories and other private employments. These Acts, like those above-mentioned, go beyond the hitherto accepted constitutional limitation on the power of the Legislature to fix the time of wage payments by extending this requirement to purely private employments and individual employers.

Georgia (S.B. 43) requires corporations to pay wages semi-monthly.

New Jersey (182) makes it unlawful for a corporation to pay wages in non-negotiable script. If script is used, it must indicate on its face that it is redeemable at sight and in cash.

Recognition of the financial and other restrictions on the ability of an employee to enforce payment of wages due to him is found in California

(228), which authorises the Labour Commissioner to take assignments of wage claims and prosecute actions for their recovery in case the employee is financially unable to employ counsel and the Commissioner believes the claim valid.

More indefinitely, Wyoming (31) requires the Labour Commissioner "to see that workers are protected in the collection of their wages" and directs him to inspect living accommodation furnished as part payment for work.

A more striking effort in this direction is contained in Washington (191), which regulates contracts for "seasonal" labour—defined to include all work to be paid for at the termination of the employment—and provides that disputes as to wages due for such labour shall, on petition of either employer or employee, be investigated by the Labour Commissioner, who is authorised to subpoena witnesses and to "hear and determine" such disputes. In effect, the Labour Commissioner is given the powers of an inferior court to examine and determine, in the first instance, the rights of the parties to such contracts. Either party may appeal from the Commissioner's decision to the County Courts, where the case is tried *de novo*, but if no appeal is taken, the award of the Commissioner, in a subsequent suit on the contract, may be admitted in evidence. It is specifically stated, however, that the Commissioner's findings are not to be conclusive.

This Washington Act and Oregon (313) also make it a criminal offence for an employee who with intent to defraud receives an advance of money or supplies on account of a labour contract and wilfully fails to perform such contract. These enactments are typical of a number of recent statutes which go so far in the penalising of breaches of contracts for personal services as to approach precariously close to the practice condemned in the Bailey case (219 U.S. 219) which extended the operation of the 13th Amendment to cases involving labour enforced through fear of imprisonment.

It is made a criminal offence to discriminate against women in wages paid for like work in Michigan (H.B. 115) and Montana (147). These enactments, like the wage payment statutes mentioned above, are applicable to private employments, and to that extent raise undetermined constitutional questions.

Industrial Disputes.—General provision for the promotion of "voluntary mediation and conciliation of controversies and disputes between employers and employees and to avoid resort to strikes, lockouts, boycotts, blacklists, discriminations, etc.," is made in Rhode Island (1,741), which creates a Labour Board with power also to appoint Mediation and Conciliation Boards for the settlement of particular disputes. The power of these boards is limited to investigation and conciliation.

A more drastic legislative effort to prevent or settle industrial disputes is to be found in Oregon (178), which provides for a Board of Conciliation and Arbitration Boards, with power to investigate strikes and lockouts. If either party refuses to accept the findings of the Conciliation Board or the award of an Arbitration Board or declines to arbitrate, the Conciliation Board is required to prepare written findings naming the party responsible for the strike, and two copies of such findings must be filed as public documents.

Neither of these laws gives any binding effect to the conclusions of the investigating boards. The Oregon statute makes it possible for the

findings of the board to be given publicity, and by guiding public opinion to have the effect of influencing the parties to the dispute.

Wisconsin (530) goes further and authorises an investigation by a Board of Conciliation of wage disputes between an employer of more than twenty-five persons and his employees and a determination of the "fair, equitable, and just wage" for such employees, and provides for publicity for the Board's findings. This Act contains the very important provision that if the employer in the dispute is a public service corporation, the Conciliation Board may determine "the wages, hours of labour, or working conditions to which such employees are reasonably entitled." This determination is subject to review by the Railroad Commission of the State. If the earnings of the public service company are sufficient to meet the cost of making effective the determinations respecting wages and working conditions without depriving the company of a fair return on its property, the Railroad Commission shall order them to be put into effect; otherwise the Railroad Commission shall order such a revision of rates and charges as will enable the Company to meet the cost of the increased wages or improved working conditions.

Porto Rico (No. 36) creates a Mediation Commission, and in addition to provisions for conciliation authorises compulsory investigation and report by the Commission as to the causes, etc., of all industrial disputes.

The American Federation of Labour's Bill to limit the power of courts to issue injunctions in labour disputes to those cases in which irreparable damage to property is threatened was enacted in Washington (185), North Dakota (H.B. 57), and Oregon (346). This Bill contains the now famous declaration of the Clayton law that the "labour of the human being is not a commodity or article of commerce." Though enthusiastically advocated by leading labour men, this declaration seems to have no legal meaning or effect. These Acts and Iowa (213) except labour unions from the provisions of the anti-trust and conspiracy laws. They also prohibit injunctions in cases involving the violation of a contract of employment where no irreparable damage to property (or to "personal rights" in the Washington and Oregon statutes) is threatened.

In California, where this injunction statute had previously been enacted, it is provided (224, 226) that the prohibition of the issuance of an injunction in contract cases shall not apply where the compensation equals \$6,000 per year and the service is of an "extraordinary" character.

Washington (184) creates an investigating commission to consider evils in industrial life and to prepare legislation to prevent strikes and for the orderly settlement of industrial disputes.

Workmen's Compensation.—The large number of amendments to compensation laws bears eloquent testimony to the impossibility of foreseeing all the contingencies that may arise from the application of a new principle of law.

Missouri (S.B. 389), North Dakota (H.B. 56), and Tennessee (123) pass Workmen's Compensation laws for the first time. The North Dakota Act is compulsory for "hazardous employment," which includes all but agriculture, domestic service, and steam railroads. Insurance is compulsory in a State Fund, in which employers engaged in non-hazardous business may also insure and so accept the Act. The Act is administered by a Workmen's Compensation Bureau, which also prescribes and enforces safety laws and regulations. The Tennessee statute is

elective, but insurance is compulsory either in an insurance company or by self-insurance through the filing of a bond by the employer. The Act is administered by the County Courts. An interesting provision obliges an employee to accept treatment if offered to him by the employer even after the 30 days during which the employer is required to furnish treatment. Wisconsin (568) permits Christian Science healing in lieu of medical treatment if both employer and employee agree. This, of course, obliges the employer or the insurance company to pay for the treatment. The employee, however, must take the risk of Christian Science healing in cases where surgical treatment is deemed necessary, for the Act provides that compensation is not payable for death caused by, or an aggravation of disability resulting from, an unreasonable refusal or neglect to submit to proper medical or surgical treatment.

Colorado (210) re-enacts its Workmen's Compensation law and provides that an employer who lends an employee subject to the Act to a third person shall be liable for the compensation for injury or death of such employee in the absence of a contract with the third party. The Act reduces compensation by 50 per cent. where the injury is due to the employee's intoxication, or wilful failure to use safety devices, or to obey reasonable rules. Insurance is compulsory under the Act; there is a novel provision for an injunction at the suit of the Industrial Commission to enjoin an employer who fails to keep his liability insured from continuing his business during such default.

Occupational disease is made subject to compensation by Wisconsin (668) in the same manner as industrial accidents.

The trend toward great liberality for the sufferers from industrial accident is noticeable in the increased scale of compensation, and the raising of the maximum and minimum, in a number of States.

Insurance carriers in four States will no longer profit so greatly in cases where a deceased employee leaves no dependents entitled to compensation. California (183) requires payment to the State Treasury in such cases of \$350, New Jersey (101) of \$400, Minnesota (358) of \$100, and Massachusetts (272) of \$100. This money is used in Massachusetts and Minnesota to pay part compensation to employees who have previously been injured and who suffer second injury. In California the money is used for vocational education of injured employees. Vocational education of injured employees is to be investigated in Massachusetts (Res. 53), while Oregon (435) authorises the State and Industrial Commission to appropriate from the Industrial Insurance Fund a large sum to build a hospital to reconstruct such employees. This is a practical recognition of the theory that rehabilitation will save money for the insurance funds. Minnesota (365), Rhode Island (1,737), New Jersey (74), and Illinois (S.B. 449) also provide for education and rehabilitation of persons physically incapacitated or handicapped whether by industrial accident or otherwise.

Discrimination against persons physically handicapped is provided against, from one point of view, by Minnesota (367), which prohibits any workmen's compensation insurance carrier in the State to make or charge any rate discriminating against the employment of such persons. Violation is made a misdemeanour and the severe penalty of the cancellation of the licence by the Commissioner of Insurance may be inflicted. If it is true that the hazard is greater in such cases, this statute is a means of spreading the extra risk over the whole class of insured persons, and

to that extent makes them pay for the extra hazard of a few members of a special class.

The practical difficulty in distinguishing between railroad employees engaged in interstate commerce, who are under the Federal Employers' Liability Act, and intrastate employees who are under the State Compensation Law, caused Washington (67) to exempt practically all railroad employees from its Compensation Act. The statute adopts the Federal Employers' Liability Law for such employees, so that nearly all railroad employees in Washington are under the same statute. The meaning of the Act may differ for interstate and intrastate employees, however, as the Supreme Court of the State has the final word in the construction of the Act so far as intrastate commerce is concerned, while the United States Supreme Court fixes ultimately the application of the Act to men engaged in interstate commerce.

Sedition and Sabotage.—Anticipation of industrial and political unrest during the reconstruction period is evidenced by a number of statutes punishing revolutionary propaganda and industrial or political violence.

Statutes defining and punishing criminal syndicalism and sabotage were enacted in Oregon (12), Oklahoma (70), Utah (127), Nebraska (261), and Iowa (382). The Oregon Act recites that "there is an active element within this State which is determined if possible to overthrow our existing political structure," and "destroy our industrial and economic institutions."

A similar but less detailed provision against syndicalism is contained in New Mexico (140), Michigan (H.B. 139), Nevada (22), Ohio (H.B. 477), California (188), and Washington (174). Most of these statutes also penalise the owner of premises who knowingly permits assemblages the purposes of which are contrary to the provisions of the Act. The New Mexico statute makes guilty of misdemeanour any person, firm, or corporation employing any person who is known to them to be violating the Act.

Washington (173) not only punishes sabotage, but also makes it a felony to interfere with or supplant the owner's management of his industry or to threaten such interference.

Sedition and opposition to the Government of the United States or of the State is punished in Minnesota (93), which prohibits interference with the military forces or with bond sales, and the publication of disloyal or abusive language concerning the Government or our military forces, flag, or uniform. This statute is permanent and applicable whenever the United States is at war.

Criminal punishment for anyone who advises, suggests, or encourages crime as a means of coercion or of accomplishing reform is provided in Wyoming (76), Indiana (125), Vermont (194), Massachusetts (191), and Rhode Island (1,771). Connecticut (312) punishes the publication of disloyal or abusive matter concerning the Government of the United States, its military forces, flag, or uniform. Similar prohibitions against the advocacy of the reformation or overthrow by violence, or other unlawful means, of the present form of government of the United States and of the several States are contained in Illinois (H.B. 300), West Virginia (24), and New Hampshire (155). Pennsylvania (No. 275) defines and punishes sedition. Nebraska (234) requires all public meetings to be conducted in English and penalises violation.

The display of the red flag or any other symbol or emblem calculated to incite disorder or hostility to Government is forbidden in a large number of States. Legislation of this kind is contained in West Virginia (24), New Jersey (78), Oregon (35), Indiana (125), South Dakota (S.B. 2), and Nebraska (208), which also prohibits possession of any printed, painted, stamped, carved, or engraved picture or facsimile thereof, with intent to display it within the State, and such possession shall be *prima facie* evidence of such intent. Iowa (199) makes it a felony for a person armed with a dangerous weapon to display such red flag or other symbol.

Federal legislation establishing uniform laws for the entire country concerning this subject, and punishing violence against the Government, or the teaching of sedition or revolutionary doctrines, would undoubtedly be preferable to varying enactments in the several States. For example, the display of a red flag may be punished by 15 years' imprisonment in New Jersey, and by a maximum of only 30 days' imprisonment in South Dakota. These State statutes will, however, undoubtedly make it possible for State officials to assist the Federal Government in checking possible industrial or political violence.

Public Utilities.—South Dakota (218, 222) declare that the mining, manufacturing, distribution, and sale of coal and cement are "public purposes impressed with a public use and as such governmental functions of the State and subject to regulation." These statutes establish commissions authorised to acquire and operate coal mines and cement plants, and to distribute and sell coal and cement, but contain no provisions to carry out a legislative declaration, which would seem to attempt to bring privately owned coal mines and cement plants, and dealers in these commodities, within the class of business affected with a public use. The mere fact, however, that the Legislature declares a business to be so affected with a public use has been held to render such business amenable to the usual incidents of such a status, provided that the nature of the business is such that the court will hold that such classification of the business is not a violation of the constitutional requirements of due process or equal protection of the laws. It follows, therefore, that all persons and corporations producing and dealing in coal and cement in South Dakota may be required to serve all who seek to purchase these commodities, to charge reasonable prices, and to refrain from discrimination in service or prices, assuming that the court construes these statutes literally and does not overturn them on constitutional grounds.

Other newly declared public utilities or businesses affected with a public interest are stockholders in Minnesota (461) and buildings rented for business or residential purposes in the District of Columbia (66th, Pub. No. 63). Nebraska (233) provides that every organisation maintaining a trade room for members only in which grain or farm products are sold or exchanged shall be considered a public market. Membership therein is required to be open, with equal rights to all persons desiring to trade thereon who make application and comply with reasonable requirements of membership. Any such organisation which violates this Act is declared to be a monopoly in restraint of trade.

Montana (223) creates a State Trade Commission to regulate and control public mills and their rates and services.

Claims for damages on an express shipment upon which recovery is finally obtained bear interest at the rate of 10 per cent. after 120 days from the date the claim is filed under the provisions of Wisconsin (370).

A similar tendency is evidenced in North Dakota (H.B. 175), which provides that failure to deliver an intrastate telegraph message within a reasonable time subjects the company to a penalty of \$25 in addition to the existing liability for damages.

Venereal Disease.—Acts declaring venereal diseases dangerous to public health and subjecting persons affected to quarantine as in the case of other serious communicable diseases, requiring physicians to report cases, and giving to health officers power to examine and quarantine, and requiring compulsory treatment, were passed in North Dakota (S.B. 140), North Carolina (206), Iowa (299), South Dakota (S.B. 85), Montana (106), South Carolina (No. 17), Delaware (53), Florida (7,829), Utah (52), Washington (114), Georgia (1918, No. 393), Oregon (264), and Colorado (57), which also provides that the name of the patient need not be made public unless such person is a menace to the public. These statutes also make it unlawful for a person affected with these diseases to expose another person to infection. They are phrased in almost identical language, but the Montana statute adds a novel provision requiring, under threat of criminal punishment, a physician or other person who knows or has good reason to suspect that a person infected "is so conducting himself or herself as to expose other persons to infection, or is about so to conduct himself or herself," to notify the health authorities. The Iowa statute provides that in lieu of quarantine, any person, except a prostitute, having such disease, may make a written application under oath to the local Board of Health, for release on bond. The application shall be accompanied by a certificate signed by a specified officer that the applicant is not a prostitute. Applicant shall then file a bond for \$1,000, conditioned that applicant will not infect or expose to infection any person, will continue treatment until cured, and will observe rules and regulations prescribed. Before release from such bond, a final examination and approval of the health officer must be secured. It also provides that any person who transmits or assumes the risk of transmitting disease shall be fined or imprisoned, and, in addition, shall be liable to the injured party for all damages sustained thereby. The Utah statute requires physicians to inform infected persons of the danger of communicating the disease and to advise such persons against marriage. Illinois (S.B. 253) provides for segregation and treatment of persons suffering from these diseases.

Maine (41) forbids the marriage of syphilitics. Oklahoma (17) makes the marriage of infected persons a felony, while Alabama (No. 178) requires a certificate of the man's freedom from infection before a marriage licence can be issued. The Maine Act contains an important enforcement provision. It requires physicians, under penalty, to notify the local health officer if an infected patient intends to marry, and the health officer is empowered to notify the other party. In the public interests the physician is not only permitted to disregard what has heretofore been considered a professional secret; it is made his duty to do so.

North Carolina (215) serves to remove any possible fear that the power to examine and quarantine may be employed as a system of registering prostitutes, since it makes prostitution and the keeping of a house of prostitution a crime. This Act is evidently part of a concerted programme; it appears in six other States and has influenced legislation in at least two others. The Montana Act forbids issuance of certificates of freedom

from infection unless given under such safeguards as to prevent their use in solicitation of sexual intercourse.

An interesting provision for the protection of the individual is found in Washington (114) which allows an appeal to the State Board of Health from a decision of the local health officer.

Nebraska (265) declares venereal disease, in the usual language, "contagious, infectious, communicable, and dangerous to public health," and vests in the State Department of Health the power to make rules and regulations "in its judgment necessary" to control and suppress such diseases. Breach of these regulations is a misdemeanour. The Legislature here laid down the general principle and entrusted to an Administrative Board the making of rules to carry it out. Much can be said for the practical effectiveness of this method of legislating, but the constitutional prohibition against delegation of legislative power is probably violated where, as here, the Legislature provides no standard for the control of the rule-making authority.

Drugs.—The war against the abuse of narcotic drugs—the consumption of which has grown to alarming proportions—was expanded by amendments to the Federal tax and by drastic State laws. Congress in the Revenue Act of 1918 increased the tax on these drugs and tightened the administrative provisions under which dealers are licensed and controlled. This is another instance of the use of the Federal taxing power, not for revenue, but for regulation. It is interesting to note that this tax was enacted to carry out our obligations under the international agreement for the control of habit-forming drugs.

Tennessee (105) limits the amount of such drugs which may be dispensed or prescribed by physicians to any patient in any 24 hours. Oklahoma (60) also limits the supply which may be secured in any 48 hours. Both of these laws make violations felonies. A physician's licence may be revoked under Tennessee (117) if he prescribes or dispenses opium to an addict except in a *bona fide* attempt to effect a cure.

Delaware (214) and the Oklahoma Act show the effect of the anti-narcotic campaign which has been so largely stimulated by the enforcement of the Federal law. The Delaware Act follows generally the Federal Act and depends, as do similar State laws, on that statute, since the Federal official order form on which narcotics must be obtained by dealers is made on the official form for the State. Consequently, if no forms were issued by the United States Government, no narcotics could be procured by Delaware druggists. An interesting provision opens the records to Federal officers, but punishes them for disclosing information so obtained except for the purposes of enforcing the Federal law or that of the State.

Soldiers and Sailors.—Legislative provisions for returning soldiers and sailors who served in the war with Germany take the form of preference in public employment, limited exemption from taxes, provision for recording discharges, and encouragement and assistance in securing their return to employment.

Land Settlement Commissions to encourage and assist the men to build homes and develop farms are created in a number of States of which Oregon (303), South Dakota (S.B. 255), California (450), and Wisconsin (596) are typical. Direct financial aid to returned soldiers for limited periods pending their re-employment is provided in a number of States, but the most liberal provision of this kind is that of Massachusetts (283), which grants to each officer and man who entered the service from the

State the sum of \$100. It has been necessary for the State to authorise a bond issue and a special tax to enable it to meet this payment. North Dakota (H.B. 128) also levies a special tax to establish a Returned Soldiers' Fund, from which there is to be paid to each man who entered the service from the State a sum equal to \$25 for each month of his service. This grant is subject to the limitation that it is to be used to acquire a home or to finish his education.

Extension of the moratorium laws postponing actions against men in the service for a specified time after their discharge is provided in Missouri (H.B. 927), Montana (104), and Minnesota (140).

THE LAW AND LEGISLATION OF THE STATE OF NORTH BORNEO.

[Contributed by C. F. C. MACASKIE, Esq.]

Legal History—The Charter.—Before the constitution of the Chartered Company, the territories now known as the State of North Borneo were administered nominally, if not actually, by the Sultans of Brunei and Sulu, who claimed sovereignty over the west and east coast respectively. In actual fact, their power extended only to the coasts, and even there their authority was often defied by the local chiefs, who gave the coast of Borneo its unenviable notoriety as a nest of pirates. The Sultans, who cared little for the good government of the territories which lay outside their immediate personal perspective, showed a lively interest in the amount of revenue which could be obtained from them, and adopted the old iniquitous practice of farming out the rights of collecting revenues to persons of rank.

These "farmers" usually settled at the mouth of the principal rivers of their districts and levied import and export taxes on passing traders, and plundered periodically such of the inhabitants of the country as they could reach. They were not, as a rule, energetic administrators, and made few attempts to extend their power into the interior. Around the residence of the administrator there grew up a settlement of natives of his own race, and disputes among these people and between them and neighbouring tribes were settled in accordance with the customary law of the dominant race, but the interior tribes determined all disputes among themselves in accordance with their own customs, and the influence of Brunei or Sulu customary law is not traceable beyond the coast. Brunei and Sulu customary law is impregnated with Muhammadan law, but Muhammadan law was never strictly interpreted, and, except in matters of public worship, marriage, and divorce, the customary law of the Bruneis and the Sulus was almost as vague and variable as that of the pagan tribes of the interior.

The system of farming out districts was not altogether satisfactory to the Sultans, because it often happened that a "farmer" found himself unable to screw sufficient out of his district to meet the annual tribute, or, on the other hand, became so successful that he defied his suzerain and refused to send tribute. It is not, therefore, surprising that the Sultans should have been ready to cede their territorial and sovereign rights over North Borneo to the English gentlemen who promised them

a regular annual payment in return, and on whose word they knew they could rely. On November 1, 1881, the English gentlemen who had secured the concessions from the Sultans were granted a Charter by Queen Victoria, and the history of the State of North Borneo began. The Charter is the Constitution of North Borneo. It recognises the concessions granted by the Sultans and authorises the Company to assume the Government of the ceded territories.

There can be no doubt that from the moment the Charter was granted, the law of England, both Civil and Criminal, as it then existed, became the law of the State. The Privy Council, in an analogous case which has come before them, settled the matter as follows :

" It is really immaterial to consider whether Penang should be regarded as ceded or newly settled territory, for there is no trace of any laws having been established there before it was acquired by the East India Company. In either view the law of England must be taken to be the governing law, so far as it is applicable to the circumstances of the place."

Two provisions in the Charter, however, modify the effect of the introduction of English law :

Section 8.—" The Company, as such, or its officers, as such, shall not in any way interfere with the religion of any class or tribe of the people of Borneo, or of any of the inhabitants thereof."

Section 9.—" In the administration of Justice by the Company to the people of Borneo, or to any of the inhabitants thereof, careful regard shall always be had to the customs and laws of the class or tribe or nation to which the parties respectively belong, especially with respect to the holding possession, transfer, and disposition of lands and goods, and testate or intestate succession thereto and marriage, divorce, and legitimacy, and other rights of property and personal rights."

Sir Edward Stanley, first Recorder of Penang, in explaining the Charter of 1807, upon the occasion of its proclamation at the opening of the New Court, said :

" It secures to all the native subjects the free exercise of their religion, indulges them in all their prejudices, and pays the most scrupulous attention to their ancient customs, usages, and habits, a generous principle of Government adopted by Great Britain towards her Indian Empire, which has contributed much to her own honours and glory, as well as the happiness of her subjects in these remote territories."

Here we have the general intention, but in the important case of *In the goods of Abdullah, deceased* (1835) we can note the modification that time has brought. Sir Benjamin Malkin held :

" The Charter seems to have intended to give a certain degree of protection and indulgence to the various natives resorting here ; not very clearly defined, yet perhaps easily enough applied in particular cases, but not generally, to sanction or recognise their law."

This appears to be an appropriate description of the position in this State.

Subject to the conditions that any native custom or law is not inhumane, unconscionable, or contrary to public policy, the following general rules may be given :

Criminal Law.—" No racial custom or law can excuse the commission of any offence against the Criminal Law, but may be pleaded in mitigation of

sentence. Acts which are not punishable under the Criminal Law may nevertheless be punishable as offences against racial custom and law.

Civil Law (a).—"In any Civil action between parties of the same race the existence of any racial custom or law affecting the matter under dispute may be proved, and shall be held applicable, unless it is proved that the parties intended otherwise.

(b).—"In any Civil action between parties of different races the existence of any racial customs or law of either party affecting the matter under dispute may be proved, but shall not be held applicable unless it is proved that the parties intended to be bound by it."

Legislation.—The Law of the State at the moment the Charter was granted was the Law of England as it existed on November 1, 1881, so far as it is applicable to the circumstances of the place, and modified by the recognition of the racial religious customs and laws of the inhabitants of the State.

By virtue of the powers conferred by the Royal Charter, the Chartered Company is enabled to legislate for the State. Until 1912 legislation was by Proclamation of the Governor, subject to the covering approval of the Court of Directors. He was assisted by an Advisory Council, which included one representative of the commercial community. In 1912 a Legislative Council was formed to consist of the Governor, seven official and four unofficial members. The unofficial members are nominated by the Governor to represent the East and West Coast Planting community respectively, the European and Mercantile community, and the Chinese and other Asiatic community, which communities submit names for the Governor's approval. The duties of the Council are to place before the Governor the views of the various sections of the community in connection with proposed or existing legislation, and to assist him, when necessary, in considering new legislation for submission to the Court of Directors. Since the establishment of the Legislative Council the word "Ordinance" has been used to denote legislative enactments, but legislation is still in the power of the Governor alone, subject to the covering approval of the Court of Directors, and the duties of the Council are mainly advisory.

In a country where the administration of justice cannot be conducted by trained lawyers it is clearly of the utmost importance to adopt a code of laws to which a layman can readily refer. The first necessity was an adequate Criminal Code. Fortunately the necessity of codifying the Criminal Law of England had already been encountered in India, and the requirements of this State were admirably met by the adoption of the Indian Penal Code (Act XLV of 1860), which provided a comprehensive Criminal Law readily accessible to and understandable by a layman.

By s. 2 of the Code, "Every person shall be liable to punishment under this Code, and not otherwise, for every act or omission contrary to the provisions thereof." The Indian Penal Code is an extremely comprehensive one, and there are few acts or omissions which are offences under the Law of England and which are not also offences under the Code. When, however, any such cases do arise the offender may be tried and punished in the Courts of the State under the Law of England as imported by the Charter.

The Breach of Contract Act (13 of 1859), which makes the breach of a contract to serve by a workman who has received an advance a criminal offence, was also adopted from India. Numerous local Ordinances

which penalise the infringement of their provisions complete the criminal law of the State.

When administration of the country was first undertaken the importance of a Civil Code of Law was less urgent. The majority of cases which came before the Courts were petty cases between Asiatics which were decided according to their own customs or according to abstract principles of right and wrong. It was possible, however, to borrow from India a number of Acts which codified the Civil Law in certain important matters, and the following Acts were therefore adopted :

The Contract Act (9 of 1872), The Limitation Act (9 of 1908), The Specific Relief Act (1 of 1877), The Probate and Administration Act (5 of 1881), The Indian Companies Act (6 of 1882 and 6 of 1887), The Transfer of Property Act (4 of 1882) ; and from the Colony of Fiji, the Partnership Ordinance of Fiji (No. 7 of 1878). These Acts covered a number of cases which came before the Courts, but one is at once struck by the absence of any provision for cases of Tort, or civil wrong. No doubt if the draft Code of Civil Wrongs drawn up by Sir Frederick Pollock in 1882 had been adopted in India it would have been welcomed in the State.

It so happens that cases of Tort are very rare in the Civil Courts of the State. By s. 545 of the Criminal Procedure Code, whenever a Criminal Court imposes a fine the Court may order compensation out of the fine to be paid for the injury caused by the offence committed, " where substantial compensation is, in the opinion of the Court, recoverable by civil suit." In the majority of cases, a Tort is also an offence under the Penal Code, and is dealt with in the Criminal Courts, and compensation is paid under the above provision.

Occasionally, however, cases arise in which the complainant prefers to seek his remedy in the Civil Court ; and in order to avoid the somewhat anomalous position which arose from the fact that the common law was imported direct from England while the statute law came from India, the following provisions were inserted in the Procedure Ordinance (2 of 1915) :

Section 5.—" The Rules of Equity at present in force in British India shall be in force in this State."

Section 6.—" Whensoever any suit is instituted in the Courts of this State and under Form as provided by the Code of Civil Procedure Act 5 of 1908 (repealing Act 14 of 1882) which suit is not directly under sanction of one or other of the Acts of the Government of British India as definitely adopted by Schedule 3 of this Ordinance, such suit shall be deemed to have been instituted under the sanction and shall be adjudicated upon in accordance with the principles of the Common Law at present in force in British India."

Having adopted the Penal Code and many of the codified civil laws of India, it was necessary, and desirable, to follow also the procedure of the Indian Courts. The following Acts were therefore adopted :

The Criminal Procedure Code (Act 5 of 1898), The Civil Procedure Code (Act 5 of 1908), The Evidence Act (Act 1 of 1872), The Whipping Act (Act 4 of 1909), The Indian Oaths Act (Act 10 of 1873), The Protection of Judicial Officers Act (18 of 1850). These Acts supply a complete and efficient set of rules to govern the procedure of all Courts of the State.

The adopted Acts are not reprinted locally, and reprints in India invariably include amendments which have from time to time been made.

Such alterations are not law in this country unless specially adopted, and it became in time quite a difficult matter to study the original adopted Act in a reprint which included alterations. In 1917 a rule was framed (Notification 44 of 1917) which adopted all amendments of the adopted Acts which appear in the Manuals that are in general use in this country, i.e. *The New Civil Courts Manual* (Craneborough), 1911 edition; *The Code of Civil Procedure* (Mitra), 1908 edition; *The Pocket Criminal Court Companion* (B. Baral), 1911 edition.

Constitution and Jurisdiction of the Courts.—The Courts of the State closely correspond in name with the Criminal Courts of India and exercise in general the same powers under the Code of Criminal Procedure, and in this country the Civil and Criminal Courts are the same in name and fact. There are the High Court, the Judicial Commissioner's Court and the Sessions Court; the District Magistrate's Court; First Class Magistrate's Court; Second Class Magistrate's Court; Third Class Magistrate's Court, Chief's Court.

For the convenient conduct of judicial work the State is divided into sessional and magisterial divisions which correspond with the areas exclusively administered by Residents and District Officers respectively.

In addition there is in this country the important Native Court, which consists of all duly appointed Government Chiefs and such headmen as may be empowered by the Resident to sit. This Court sits as a Court of Law, but its functions are quasi-administrative. Two or more chiefs or headmen must sit together. The Court has jurisdiction over all matters "arising exclusively from the breach of laws and customs of the natives of the district,"¹ where both parties are Asiatics. In cases of sexual offence, and where the parties are not of the same race and one party is a female, the Native Court is guided by the laws and customs of the woman's race. By the wording "arising exclusively from the breach of laws and customs of the natives of the district,"² any offence which is punishable under the criminal law is taken out of the jurisdiction of the Native Court, but in practice it is allowed to deal with many cases which could be heard by a magistrate; for example, adultery (s. 497, Penal Code), and insult (s. 509, Penal Code), are usually tried in the Native Court where one of the parties is a native and both are Asiatics. The proceedings of the Court are scrutinised by the District Officer, who may ask the Resident to vary the proceedings and order a re-trial if he thinks injustice has been done, and any sentence of imprisonment must be endorsed by the District Officer. Appeals lie to the District Officer, Resident, and Governor in succession. The jurisdiction of the Native Court is in its nature a criminal jurisdiction, but many of the cases which arise before it are treated more as in the nature of civil wrongs, and compensation is awarded to the complainant without any other penalty.

It will be convenient to outline the constitution and jurisdiction of the Courts on their criminal side, and deal later with the civil powers of each Court. It must be remembered that every Court in the State has both criminal and civil jurisdiction.

The lowest Court of Law in the State is the Chief's Court. A chief appointed by the Governor in writing is empowered to try summarily

¹ S. 10 (2) (a), Ordinance 5 of 1913.

² Curiously enough the Schedule to Ordinance 5 of 1913 by implication contradicts the meaning of the word "exclusively" in s. 10 of the same Ordinance.

any offence compoundable under any statutory law and to pass sentence not exceeding one month's imprisonment or¹ a fine of \$25. He is a magistrate with limited powers and can deal only with trivial misdemeanours. In actual practice the majority of cases which would come before him are dealt with by the Native Court, and it is expressly laid down that whenever an offence under statutory law is also an offence under native customary law such offence shall be triable only in the Native Court,² and not by the Chief's Court. This provision conflicts with s (II) 2 (a) Ordinance 5 of 1913 quoted above.

Magistrates are appointed by the Governor and are invariably executive officers. A Magistrate's Court consists of a single magistrate. Any magistrate may sit and adjudicate whether appointed to a particular magisterial division or not, provided that he is directed to sit by the Governor or requested to sit by the Magistrate in charge of the Court. All magistrates have the powers assigned to them by Schedules III and IV³ of the Code of Criminal Procedure.

A Magistrate of the Third Class may pass sentence of imprisonment for a term not exceeding one month and of fine not exceeding fifty dollars. A magistrate of the Second Class may pass sentence of imprisonment for a term not exceeding six months and of fine not exceeding two hundred dollars, and in revenue cases not exceeding five hundred dollars and of whipping.⁴ A Magistrate of the First Class may pass sentence of imprisonment for a term not exceeding two years and of fine not exceeding one thousand dollars and of whipping. A Magistrate of the First Class is specially empowered to impose a fine of not exceeding \$2,000 for offences against the Liquors Revenue Ordinance, 1914, and \$5,000 for offences against the Opium and Chandu Ordinance, 1914. The District Magistrate is the magistrate appointed as District Officer, and has all the powers of a First Class Magistrate, and, in addition, appellate jurisdiction in cases from the Courts of Magistrates of the Second or Third Class.

The Sessions Court consists of the Judicial Commissioner in Sandakan and of a single Sessions Judge elsewhere. The Sessions Court may pass any sentence authorised by law, but sentences of imprisonment exceeding seven years are subject to confirmation by the Judicial Commissioner. All sentences of death or imprisonment exceeding ten years must be submitted to the High Court for confirmation, and any order of the High Court confirming such sentences must be referred to the Governor before any final warrant is issued. The Judicial Commissioner's Court is the only Sessions Court which has appellate jurisdiction. Appeals from a Sessions Court lie to the High Court.

The High Court consists of the Governor as Chief Judge, the Judicial Commissioner, and such Sessions Judges as may be appointed by the Governor with the approval of the Court of Directors. No Sessions Judge can sit on an appeal from his own decision. Three or more Judges, including the Governor as Chief Judge, and the Judicial Commissioner constitute a full Bench. The Chief Judge or the Judicial Commissioner may act alone in cases of appeal from a Sessions Court (except appeals from the Judicial Commissioner, which lie to a full Bench), or in cases of reference by a subordinate Court or directions of the nature of a Habeas Corpus. The High Court is the final Court of Appeal in criminal cases.

¹ Query "and/or" ?

² Schedule Ordinance 5 of 1913.

³ By Ordinance 2 of 1915, s. 11 (v).

⁴ Ordinance 2 of 1915, Schedule III.

In any trial before the High Court, the Court may direct that the trial shall be by jury of nine persons. Trial by jury before the Sessions Court may be ordered by Government by notification in the *Gazette*, and the jury shall then consist of an uneven number not being less than three or more than nine. In practice in this country, the Sessions Court is assisted by assessors, varying in number from two to five. Assessors are required to give their opinions individually, but in giving judgment the judge is not bound to conform to their opinions.

No charge against a European British subject can be tried except by a Magistrate of the First Class who is himself a European British subject, and he has power to pass sentence only of three months' imprisonment or of fine of \$1,000 or both. A District Magistrate may pass sentence of six months' imprisonment or of fine of \$2,000 or both. The Sessions Court can pass sentence of one year's imprisonment or fine or both.

A European British subject may claim trial by a jury of which not less than half the number shall be Europeans or Americans. If a European British subject is convicted by a magistrate or Sessions Court he may, at his own option, appeal either to the High Court or to the Judicial Commissioner's Court.

The Civil jurisdiction of the Courts is more limited than the Criminal jurisdiction. A Chief's Court may try cases where the value of the claim does not exceed \$25.00. The Court has no power to entertain a plaint in which the value exceeds this amount, and a Chief is not for any purposes an officer of a superior Magistrate's Court.

A Third Class Magistrate's Court may try cases where the value of the claim does not exceed \$100, but cannot entertain a plaint for a greater sum.

A Second Class Magistrate's Court may try cases where the value of the claim does not exceed \$250. A Second Class Magistrate is empowered to execute the decree of a higher Court, and to issue injunctions and interlocutory orders under Order XXXIX of the Civil Procedure Code, although the amount of the claim may be outside his jurisdiction.

A First Class Magistrate's Court may try cases where the value of the claim does not exceed \$500, and has powers of execution and of issuing injunctions and interlocutory orders under Order XXXIX, and is also an Officer of the High and Sessions Court for the purpose of doing the following non-judicial and quasi-judicial acts:

(1) "The taking, swearing, and dealing with all applications and the issue of all process prior to or subsequent to the hearing of a suit or of a contested interlocutory application.

(2) "Adjudication by default *ex parte* or where the claim is admitted."

A First Class Magistrate is, therefore, able to entertain a plaint for any amount and to issue summons as an officer of the High or Sessions Court, and if the claim is admitted (or partly admitted so as to bring the actual value of the contested part to \$500 or under) he can sign judgment.

A Sessions Court may try cases where the value of the Claim does not exceed \$2,000. A Sessions Judge has, of course, all the power of a First Class Magistrate as an officer of the High Court.

The Sessions Court of the Judicial Commissioner is not limited in its jurisdiction to any amount.

The High Court is empowered to withdraw any suit from any subordinate Court and try or dispose of it itself, but as a rule the High Court will hear civil cases only on appeal from a Sessions Court.

Appeals in both criminal and civil cases lie as follows :

From a Chief's Court to a Court of a First Class Magistrate ; from a Court of a Third or Second Class Magistrate to the Court of the District Magistrate ; from a Court of a First Class Magistrate or District Magistrate to the Sessions Court of the Judicial Commissioner ; from a Sessions Court to the High Court ; Appeals from the Sessions Court of the Judicial Commissioner lie to a full bench of the High Court ; from the High Court, in civil cases only, to His Majesty the King in Council, but only where the matter in dispute is of the value of £500 or more, or, at the discretion of the High Court, if the question involved in the appeal is one which by reason of its great general or public importance ought to be submitted to His Majesty in Council for decision.

All Cadets of the North Borneo Civil Service are Special Magistrates *ex-officio*, and are empowered to issue summonses, warrants of arrest, and to release on bail and to exercise all the ordinary powers of a Third Class Magistrate prescribed by Schedule III of the Code of Criminal Procedure, but have no power to adjudicate in or dispose of cases.

The legal profession has never been very fully represented in the State, although from time to time various gentlemen have set up practice. The Governor has discretion to admit persons duly qualified in Great Britain or in any British possessions, as Barristers, Advocates, Solicitors, Attorneys, Writers to the Signet, Law Agents, or Pleaders, to practise in the Courts of the State, subject to the payment of a licence fee of \$50 per annum. In any legal proceedings where the plaintiff is a native the employment of a legal practitioner is not allowed except by order of the High Court. It is not usual for the Courts of the State to allow a successful party to recover the fees of any legal practitioner employed, and this tends to limit their employment.

The Land and Labour Laws.—By virtue of their sovereignty, the Sultans claimed absolute ownership of all land, but in a country where population was scarce and land plentiful no land problem existed. It is, however, clear that in theory the absolute ownership of land was vested in the Sultans, and that by general custom anyone could cultivate or use land subject to payment of one-tenth of the fruits of cultivation to the Sultans. In the course of time the tenant's rights became settled and individual ownership in land under permanent forms of cultivation, e.g. wet padi land and land on which fruit trees stood, was recognised. Native custom clearly shows that fruit trees were always private property and were considered so quite independently of the land on which they stood, which was, in itself, looked upon as worthless. Temporary cultivations, such as hill padi, sugar, or maize, were never considered to confer any title to the land after the occupation ceased. Land being plentiful, there was no necessity to establish a title and the cultivator preferred to break virgin soil yearly.

Such was the condition of affairs when the Chartered Company acquired the rights of the Sultans, and the influx of European and Chinese capitalists, eager to secure good plantations, changed the whole aspect.

The first duty of the Government was to protect the rights of the native inhabitants, and Proclamation 3 of 1889, legalising what had always been the practice, definitely laid down rules by which native rights to land by customary tenure should be decided ; these rules are embodied in s. 26 of the Land Law (Ordinance 7 of 1913) which defines native rights as follows :

(a) "Land possessed by customary tenure or occupied for residential purposes for the last three years preceding settlement.

(b) "Land planted with fruit trees, when the number of fruit trees amounts to twenty and upwards to each acre.

(c) "Isolated fruit trees, and sago, rotan, or other plants of economic value, that the claimant can prove to the satisfaction of the Collector were planted or upkept and regularly enjoyed by him as his personal property.

(d) "Grazing land that the claimant agrees to keep stocked with a sufficient number of cattle or horses to keep down the undergrowth.

(e) Wet and dry padi or other grain land that has been cultivated within three years.

(f) "Burial grounds or shrines.

(g) "Usual rights of way for men or animals from rivers, roads, or houses to any or all of the above."

It should be observed that in (a) above as regards the phrase "lands possessed by customary tenure," the sole test of customary tenure is the fulfilment of one of the other conditions of the section. Any native who can prove a "right" may demand a title for the land or money compensation.

A "native title" is conferred by the registration of the owner's name and particulars of the land in the "Native Title Register." An extract of the register, showing on the back the plan of the land, is issued to the native. The rent is a fixed 50 cents an acre, and no transfer of the land to an alien can be made without Government sanction. When Government approves a transfer the native title is surrendered and cancelled, and an ordinary title issued to the alien purchaser in place of it. A \$2.00 demarcation fee is charged instead of rent for the year of registration on native titles.

The absolute ownership of all land, except such as is subject to native rights, is vested in the Chartered Company by virtue of the sovereignty ceded to it by the Sultans, and all titles to land, except by natives, must originate from the Government. A number of Ordinances have from time to time been passed, and the present law is governed by Ordinance 7 of 1913, which cancels all previous enactments. Titles, however, which were issued under former Ordinances are, of course, still governed by them, but it is not necessary to consider these enactments here.

The present land law is based upon the Federated Malay States enactments, which have adopted the Torrens System devised in 1857 by Sir Robert Torrens. The essential principle of the system is that title to land should be conveyed not by an instrument in writing executed by the owner, but by the registration of that instrument. An applicant for State land applies on a printed form, and after acceptance of the terms offered is granted a Provisional Lease, which is later, after survey, exchanged for a definitive title. Rent is charged on all grants with very few exceptions, and really represents a land tax. Periodical revision of all rents at intervals of not less than 30 years is provided for, but no improvements made by the title holder or his predecessor shall be taken into account. A title conveys surface rights only, and without a special licence no timber, stone, gravel, clay, sand, etc., or bricks or lime manufactured from such materials may be removed from the boundaries of the land. All land sold or leased under the present law is liable to resumption by Government if abandoned for three years or more.

A cultivation clause is implied in all titles. This clause (s. 42) requires:

- (1) "A *bona fide* commencement of cultivation within six months.
- (2) "The whole area, if under 100 acres, to be brought into cultivation within three years.
- (3) "One-fifth to be brought into cultivation each successive year for areas between 100 and 640 acres.
- (4) "Special terms for areas over 640 acres.

Failure to comply with the cultivation clause gives Government the right to re-enter upon the uncultivated portion, but the lessee may retain such uncultivated land as he can show is necessary for the management of the estate; and in practice Government rarely exercises its strict rights. Town lands are usually sold by auction subject to a building clause which requires suitable buildings to be erected within one year.

All titles, except native titles, are prepared in duplicate and the filed counterpart forms the register, and all dealings whatsoever must be registered under penalty. Any person claiming any interest in land may apply to the Collector for rectification of the register, and may appeal from his decision to the Commissioner of Lands, whose decision is final. Unlawful occupation or use of State land is punishable with fine and imprisonment (ss. 160 to 166).

Labour Laws.—Local legislation has modified the English rule of law that specific performance of a contract of personal service will not be ordered. The Indian Breach of Contract Act (Act 13 of 1859), which has been adopted in this State, states in its preamble:

"Whereas much loss and inconvenience are sustained by manufacturers . . . from fraudulent breach of contract on the part of . . . labourers who have received money in advance on account of work which they have contracted to perform: And whereas the remedy by suit in the Civil Courts for the recovery of damages is wholly insufficient, and it is just and proper that persons guilty of such fraudulent breach of contract should be subject to punishment,"

and proceeds to make the breach of a contract to labour, when an advance has been received, an offence punishable with three months' imprisonment.

In addition to the adoption of the Indian Act there is a comprehensive Labour Ordinance (No. 9 of 1916) in force in the State. Every contract of manual labour if for a period exceeding one month must be in writing, registered and attested by the Protector of Labour. Contracts executed without the State shall not be registered as valid if for a period exceeding two years, and within the State if for a period exceeding 300 days, but every written contract shall continue to be in force after the expiration of its term for periods excluded from computation as follows: Time spent in hospital over 30 days in one year or on account of immorality or other wilful misconduct. The contract, however, cannot be extended for debt beyond its original period unless the labourer has been absent without leave or imprisoned, in which case the period of absence or imprisonment shall not be counted as running against the contract.

No advance exceeding \$30 shall be recoverable under any local contract. Provision is made to empower the Protector of Labour to cancel any contracts for repeated ill-usage, and to insist upon proper accommodation, food, water, and medical treatment. Any labourer is entitled to make a complaint to the local Magistrate or Protector, and an employer is bound under penalty to report the fact that a labourer wishes to complain. On the other hand, a labourer under written

contract who deserts or attempts to desert, and any labourer who disobeys a lawful order, refuses to work, injures property or is careless as to its custody, wilfully disables himself, absents himself from service, is insolent or otherwise misconducts himself, or dispose of articles for cash, may be brought before a magistrate and, on conviction, sentenced to fine or whipping.

There is also a "strike-breaking" provision in the Ordinance which may be quoted *in extenso* :

Section 55.—"Any labourer wilfully breaking a contract knowing or having reason to believe that the probable consequences of his so doing, either alone or in conjunction with others, will be to cause stoppage of work at any estate, factory, sawmill, timber camp, mine or other place of employment in such a manner as may be attended with serious loss to the owner of the same or danger to life or serious inconvenience to the public shall be liable on conviction to fine not exceeding one hundred dollars or to imprisonment of either description for a period not exceeding six months or to both, and if the labourer be under written contract shall, in addition, be liable to whipping not exceeding twelve strokes."

Companies, Partnership, and Insolvency.—The Company law of the State is incorporated in the adopted Indian Acts (No. 6 of 1882, and No. 6 of 1887), which, in turn, are founded upon English legislation. It embodies the main provisions of English Company law, and provides for the formation and registration of local companies, limited or unlimited.

The Law of Partnership of the country has been provided for by the adoption of the Fiji Ordinance (No. 7 of 1878). No partnership in which the capital exceeds \$850 and the duration of the contract exceeds or by its nature must exceed twelve months can be pleaded in any action between the partners themselves unless the contract has been embodied in articles of partnership.

Partnership is divided into two kinds: (1) The ordinary private partnership where the liability of members is unlimited, and (2) a new form of partnership with limited liability of certain partners.

As regards (1), although it is necessary that, where the capital of the partnership exceeds \$850 and the duration exceeds twelve months, articles of partnership must be drawn up, it is not necessary to register the agreement, and it is not necessary to insert the general principles applicable to all contracts of partnership, but only such stipulations as without being stipulated would not be implied by law.

Provision for the following must be made in all articles of partnership: (1) Time of commencement; (2) name of partnership; (3) duration of partnership; (4) manner of estimating and paying a deceased partner's share; (5) money valuation of all property contributed; (6) division of profits; (7) mode of hiring and dismissing employees; (8) mode of winding-up.

As regards (2), the new form of partnership with limited liability, it is necessary to draw up articles of partnership and to register an abstract of the articles in the office of the Registrar of the High Court, Sandakan. The partnership is one between partners whose liability is unlimited as in the case of ordinary partnerships and partners who contribute a fixed sum and take no part in the management of the business and whose liability is limited to the sum they have contributed or agreed to contribute. If at any time any dormant partner takes any active share in the business he loses his immunity and becomes liable for the debts of the

partnership as an ordinary partner, and in any action the burden of proof lies upon the partner who claims to be relieved from the ordinary obligations of a partner. The registered abstract need not disclose the names of the dormant partners.

The law of Insolvency is governed by the local Ordinance (4 of 1911). Any person may apply to be declared insolvent and any creditor (or combination of creditors) claiming not less than \$100 may apply through the local magistrate to the Court of a First Class Magistrate to have his debtor declared insolvent.

The Court shall fix a day for hearing the application and shall examine the debtor in the presence of his creditors, and, if satisfied that his statements are true and that he has not been guilty of any act of bad faith, may declare him insolvent and appoint a Receiver of his property.

When any such Receiver has certified that the debtor has placed him in possession of all his property or has done all in his power to do so, the Court may discharge the insolvent on such conditions as it thinks fit. No insolvent after discharge shall be arrested or imprisoned on account of any of the scheduled debts, but his property, previously or subsequently acquired, is liable to attachment by order of the Court until the scheduled debts have been satisfied to the extent of one-third or until the expiry of twelve years from the date of the Order of Discharge, and he shall then be absolved from any further liability.

If the total amount of debt is not more than \$200 the Court may declare him absolved from further liability at the time of his discharge. A debtor who shall be proved to have been guilty of any act of bad faith at his examination may be sentenced to one year's imprisonment.

Probate and Administration.—There is a useful provision in "The Constabulary and Police Ordinance, 1903" (s. 23), which empowers a Chief Police Officer to administer, without reference to any Court, the estate of any person dying intestate in the State and leaving movable property therein under \$100 in value. He may hand over the property to any claimant if he is satisfied of the claimant's title to it.

Similarly, s. 98 of the Land (Amendment) Ordinance, 1913, enables a Collector, without reference to any Court, to register an order of succession to native lands, and to small estates, the value of which does not exceed \$500.

Where the land is worth more than \$500 (except in the case of native land), or where the personal property is over \$100 in value, the Probate and Administration Act, 1881, of India governs the case. Application for probate of a will, or letters of administration in case of intestacy, must be made to the Sessions Court. Probate may be granted to the person or persons named as executor in the will, or if no one is named then to the universal or residuary legatee. Letters of administration in case of intestacy may be granted to any person who, according to the rules for the distribution of estates, would be entitled to a share of the deceased's estate.

It has been held in the Straits Settlements that the Statute of Distributions must be applied to Chinese, and the exclusion of females from sharing in an estate according to Chinese law will not be recognised.¹ All the widows of a Chinese or Muhammadan are entitled to a share,² as are the offspring of all polygamous marriages where such marriages are

¹ *Lee Joo Neo v. Lee Eng Swee*, 4 Ky. 325.

² *Choo Ang Ghee v. Neo Chan Mo and others*, 12 S.S.L.R. 120.

recognised by the racial law of the parties. The rights of adopted children to a share have, however, not been recognised.¹ In this country it has always been the practice to decide questions of succession solely by the racial law of the deceased, and this would appear to be in accordance with the provisions of the Charter. At the same time, the decisions of the Straits Settlements Courts carry considerable weight and would undoubtedly be followed unless some special reason were brought forward to show why they should not be followed. It is as yet an open question whether the provisions of the Charter would prevent the operation of the Statute of Distributions as regards Asiatic inhabitants of the State.

Real property, in the case of intestacy, will descend to the heir-at-law in accordance with the English rules of descent. It has always been the practice in this country to regard land as a "legal asset," and it has been vested in the executor or administrator together with the personal property of the deceased. In respect of real property again as regards Asiatics it has always been the practice of the Courts to follow the racial custom.

BRIEF SUMMARY OF OTHER LOCAL ORDINANCES IN FORCE ON DECEMBER 31, 1919.

Agricultural Pests.—Ordinance 2 of 1917 gives power to Officers appointed under the Ordinance to inspect agricultural land, to remove any plant for purposes of examination, and to demand any information.

Where disease is discovered or where any land or plant appears to be in a condition favourable to the introduction or spread of disease, the owner may be ordered, subject to an appeal within seven days to the Governor, to take steps to eradicate or prevent it. In default of action by the owner or occupier of land the inspecting officer may do the necessary work and recover the cost from him, and he is further liable to a fine of \$500.

The Director of Agriculture may prohibit the removal of any plant from land on which disease exists, and, in cases of urgency, may order the immediate destruction of any diseased plant.

The owners of sago and coconut trees attacked by pest are bound to clear the trees within one month of notice and to destroy trees diseased beyond recovery. All persons are bound to keep their lands clear of rubbish likely to harbour pests.

The Governor is empowered to make rules for preventing the introduction into, or spread of, pests in the State.

Alien Enemies.—Ordinance 10 of 1916 adopts the provisions of the Alien Enemies Winding-up (Amendment) Ordinance, 1916, of the Straits Settlements.

Alien Missionaries.—Ordinance 3 of 1919 forbids any alien desiring or intending to engage in missionary or educational work to land unless he has a permit in writing enabling him to enter on such work in the State granted to him by His Majesty's representative in the country from which he proceeds. The Governor is given power to order the deportation of any alien missionary or teacher if his presence in the State is considered undesirable in the public interests.

Aliens.—Ordinance 1 of 1915 gives power to a magistrate to order the repatriation of, and to the police to prevent the landing of, destitute

¹ *Khoo Tiang Bee et uxor v. Tan Seng Guat*, 1 Ky. 413.

or decrepit aliens. An alien is not "destitute" if in possession of, if a European, \$50, if a Eurasian, \$15, and if an Asiatic, \$10.

Auctioneers.—Ordinance 1 of 1914 provides rules for the conduct of public auctions and the licensing of auctioneers.

Banishment.—Ordinance 5 of 1901 gives power to the Governor to order the banishment for life or any shorter period of any person if

(a) "There is reasonable cause for believing that the banishment from the State of such person is necessary for the safety, peace, or welfare of the State," or

(b) "Such person takes a prominent part in any unlawful society."

If a banishee returns to the State during the period of his banishment he may be sentenced to rigorous imprisonment for any term not exceeding that for which he was banished.

Bhang.—Ordinance 1 of 1891 forbids the sale of bhang or ganja except under licence.

Big Game Preservation.—Ordinance 1 of 1909 provides penalties of \$500 fine or in default six months' imprisonment for shooting at elephant, rhinoceros, wild cattle, or deer without a permit unless in self-defence, or to prevent serious damage to property actually in the course of being done.

The cost of a yearly permit is for (a) elephant \$50 and \$100 for every bull elephant killed; (b) rhinoceros, \$25; (c) wild cattle, \$20; (d) deer, \$5.

Penalties for killing or wounding females are: elephant, fine up to \$500; rhinoceros, wild cattle, \$10; deer, \$5.

Bills of Sale.—Ordinance 11 of 1891 requires the registration at the District Magistrate's Court of a bill of sale within three days of execution. Any bill of sale is void if (a) the amount secured is less than \$100; (b) it is not in the prescribed form; (c) if it is made wholly or in part in consideration of a pre-existing debt. When goods are seized under a bill of sale they must not be removed for five days in order to give the grantor an opportunity to redeem them. Registration must be renewed annually.

Birds' Nests.—Ordinance 12 of 1914 enacts that all caves containing edible birds' nests, except as shown on a scheduled list of private properties, are Government property. The discoverer of a cave may be granted the sole right to work it, subject to a one-fifth royalty.

Births and Deaths.—Ordinance 5 of 1884 adopts the provisions of Ordinance 18 of 1868 of the Straits Settlements.

Burials.—Ordinance 16 of 1914 prohibits the use of any place as a burial ground unless the same has been duly licensed. A magistrate may order a body unlawfully buried to be removed to a licensed ground. No grave shall be less than six feet in depth. This Ordinance is intended to check the native custom of interring corpses near dwelling-houses or in isolated graves in the jungle.

Cattle and Grazing.—Ordinance 26 of 1914 orders the branding of all cattle before attaining the age of one year. A register of owners and cattle is kept in every District, and transfers, deaths, etc., must be reported. No transfer or slaughter of cattle is allowed without a printed permit.

No cattle may be driven along any road unless under control, nor along any bridle-path without permission of the District Officer. Owners

of savage cattle must destroy them. Owners of cattle are liable for all damage done by their animals ; assessment to be made by the District Officer, who may also, in case of damage to public roads, call out cattle owners of the district to repair the damage. Unbranded cattle may be impounded.

The Ordinance is intended to check cattle theft and provide for the control of native-owned cattle.

Cattle Disease.—Ordinance 2 of 1902 and Ordinance 20 of 1903 give power to the Governor to prohibit the importation of cattle and to declare districts affected with cattle disease to be "infected districts" and to be quarantined accordingly, and generally to take measures to prevent the spread of infectious disease.

Census.—Ordinance 13 of 1888 imposes a penalty of a fine of \$100 or one month's imprisonment on anyone refusing information required for any Census.

Cocaine.—Ordinance 23 of 1914 prohibits the importation or possession of cocaine except by medical or dental practitioners.

Constabulary.—Ordinance 10 of 1903 and Ordinance 4 of 1904 form the constitution of the Constabulary Force. Ordinance 6 of 1916 provides for the formation of a Reserve of discharged officers and men.

Coroners.—Ordinance 3 of 1908 provides for the appointment of Coroners, who may summon assessors to assist them, but who are empowered to sit and deliver a verdict alone.

Counterfeit Postage and Revenue Stamps.—Ordinance 1 of 1894 penalises the making of, or traffic in, counterfeit stamps.

Cruelty to Animals.—Ordinance 7 of 1902, dealing with numerous "Small Offences," has a section (33) providing a penalty of a fine of \$50 or three months' imprisonment for ill-treatment of animals, wild or domesticated.

Currency.—Ordinance 3 of 1914 legalises (1) all Government Currency Notes issued by the Treasury and signed by two members of the Currency Commission ; (2) Straits Settlements silver dollars ; (3) Straits Settlements subsidiary silver coins to the limit of \$10 ; (4) Chartered Company's nickel and copper coins to the limit, in the case of 5 cents, 2½ cents, and 1 cent nickel, of \$5, and 1 cent or ½ cent copper, of \$2.

The importation of silver dollars, except Straits Settlements silver dollars, and of nickel or copper, and the export of Straits Settlements silver dollars except to Singapore is prohibited.

Customs and Excise.—Ordinance 3 of 1916 provides for the levying of import and export dues, etc.

Departmental Fines.—Ordinance 3 of 1907 empowers heads of certain Government departments to inflict fines on subordinates for minor breaches of duty.

Distress for Rent.—Ordinance 2 of 1911 prohibits the levying of distress for rent except by bailiffs of the Court on a magistrate's warrant. Process under the Ordinance is rare, as land in the vast majority of cases is held directly under a lease from Government and arrears of rent are collected by the procedure laid down in the Land Ordinance.

Dogs.—Ordinance 4 of 1901 prohibits the import of dogs except at Jesselton or Sandakan and directs the quarantine of all dogs for such period not exceeding three months as the Principal Medical Officer may direct. The importation of dogs from the Straits Settlements is strictly prohibited. The master of any ship which brings a dog to Jesselton or

Sandakan is bound under penalty to report the fact to the Harbour Master.

Registration of dogs and payment of an annual fee of \$3 is enforced. Power is given to the police to round up and destroy stray dogs in any district after due notice. The owner of any dog which habitually runs at persons, carriages, or horses or cattle passing along a public road is liable to a fine of \$10, as is also an owner of a ferocious dog which is allowed to be at large without a muzzle. A magistrate may order any dog which has attempted to bite any person to be destroyed.

Electricity.—Ordinance 6 of 1915 prohibits the operation of any electrical installation except by licence, and regulates the generation, supply, and use of electrical energy.

Explorers.—Ordinance 7 of 1890 prohibits travellers from travelling in certain districts without a permit. It provides a penalty for wanton destruction of orchids or other rare or valuable plants or any birds or insects, and imposes a licence fee of \$250 on orchid collectors. In practice this Ordinance is obsolete.

Explosives.—Ordinance 5 of 1914 prohibits the import or possession of fire-arms or explosives except under licence.

Extradition.—The law of extradition is governed by (a) the Imperial Fugitive Offenders Act of 1881 (44 & 45 Vic. c. 69) as amended by the Fugitive Offenders (Protected States) Act of 1915 (5 & 6 Geo. 5 c. 39) applied to this State by Order in Council dated 24th October, 1916, and by Ordinance 2 of 1916, which is a local enactment complementary to the Imperial Acts; and (b) Ordinance 4 of 1914, which deals with extradition between the State and foreign countries. Extradition treaties exist with Siam, the Philippine Islands, and Guam. Ordinance 4 of 1914 gives the Governor absolute discretion to comply or not with any demand for extradition by any foreign State, and any demand to such State for the surrender of a fugitive offender must be authenticated by the Governor.

Fires.—Ordinance 22 of 1914 gives powers to the Chief Police Officer to control all means of extinguishing and preventing fires.

Fisheries.—Ordinance 10 of 1914 prohibits the erection of fishing stakes or the use of floating nets without licence.

Flags.—Ordinance 8 of 1914 penalises the use of the British North Borneo Red Ensign except by vessels duly registered or licensed in the State, and the use of a native chief's flag except by duly certified chiefs.

Floating Charges.—Ordinance 27 of 1914 provides for the registration of all floating charges on property other than land by the Registrar of the High Court within three months of creation. Unless and until such notice is registered the rights of judgment creditors are not postponed.

Flogging.—Ordinance 9 of 1903 enacts that in no case shall any sentence (or sentences at one trial) of flogging exceed 24 strokes in the case of adults or 12 strokes in the case of juvenile offenders, and in no case shall a sentence of flogging be passed upon a female. The latter is a curious omission from the adopted Indian Whipping Act (4 of 1909).

Gaming.—Ordinance 6 of 1914 defines "Gaming" as any game of chance or any mixed game of chance and skill—(a) in which a bank is kept by one or more of the players exclusively of the other or others; or (b) in which the chances of the game are not alike favourable to all players; or (c) in which a commission or percentage is charged in con-

nection with the game, the stakes, or the winnings—and defines “lotteries” as the Chinese lotteries Fan Tan, Po Tsz, Wah Weh, or any similar lottery under any other name, but the definition does not include raffles, sweepstakes, nor lotteries drawn or played outside the State, nor the selling of tickets for the same within the State.

The Ordinance vests the exclusive right of holding lotteries and gaming in the Licensed Gambling Farmer from the time being, who may sub-license others. The penalty for keeping an unlicensed gaming house may be a fine of \$500 or in default six months’ imprisonment, and the penalty for frequenting an unlicensed house may be a fine of \$50 or in default one month’s imprisonment.

The Gambling Farmer is bound by the Ordinance under penalty (1) not to lend money for purposes of gambling; (2) not to admit females or youths under sixteen. All gaming must be carried on with open doors. Houses must not be open between 12 midnight and 9 a.m. Lotteries are only permitted at certain fixed places and times.

The Court recording a conviction under the Ordinance may award one-third of the fine imposed to the informer and one-third to the Farmer, except, of course, where the Farmer is himself the defendant.

General Clauses.—Ordinance 12 of 1903 widens the meaning of certain words used in any Ordinance of the State, e.g. “persons” shall include an association or body of individuals. The provision of ss. 63–70 Indian Penal Code which provide for imprisonment in default of payment of fines are applied to all enactments.

Geneva Convention.—Ordinance 1 of 1918 prohibits the unauthorised use of the “Red Cross.”

Indian Immigration.—Ordinance 4 of 1891 is an elaborate enactment providing rules for the importation of natives of India as labourers, which has been a dead letter for many years for the sufficient reason that there has been no importation or immigration of natives of India to the State. Many of the provisions of the Ordinance conflict with the existing Labour Ordinance and are repealed by implication.

Ladang.—Ordinance 6 of 1913 prohibits the felling of primary jungle over five years old for “Ladang” cultivation, i.e. the successive occupation of different pieces of land in such a manner that any one piece is not cultivated for more than two consecutive years and is then abandoned; and imposes a permit fee of 50 cents per acre. The object of this Ordinance was to prevent the destruction of valuable timber and to encourage permanent forms of cultivation.

Lepers.—Ordinance 5 of 1911 prohibits the landing of lepers in the State, and provides for the detention in a leper asylum of any person found after inquiry by a magistrate to be suffering from leprosy. Discharge of any such person may be ordered by the Governor on the certificate of the medical officer of the asylum that such person is cured of leprosy.

Liquors.—Ordinance 32 of 1914 deals with the collection of Excise upon Intoxicating Liquors. By Ordinance 6 of 1917 the exclusive right of importing arrack and samsu is vested in the Government, but the operation of this Ordinance is temporarily suspended.

Lunatics.—Ordinance 7 of 1914 empowers any magistrate to order the arrest of any pauper, vagrant, or suspect, and if there are reasonable grounds for believing that such person is insane the magistrate may remand him for observation for a week by a medical practitioner. If such person

is certified as insane the magistrate shall commit him to a lunatic asylum.

Any lunatic certified as harmless may be discharged upon application of his friends, who will enter upon a bond to take care of him. Upon petition by relatives or friends the Governor may order the examination of any person believed to be insane, and may order his admission to an asylum if certified insane.

Manufacturing Jewellers.—Ordinance 8 of 1917 is designed to render more difficult the disposal of stolen jewellery. Manufacturing jewellers must be licensed, and lists of lost or stolen jewellery are to be passed by the police to all jewellers, who are bound, under penalty, to give any information they may possess regarding any of the articles.

Marriage.—Ordinance 4 of 1919 deals with the procedure for celebration of marriage in the State where the parties are, or one of them is, a Christian.

Marriages may be solemnised (a) by any person who has received episcopal ordination; (b) by any clergyman of the Church of Scotland; (c) by any minister of the Presbyterian Church of England whose appointment as such minister has been notified in the *Gazette*; (d) by any Marriage Registrar appointed under the Ordinance; (e) by any minister of religion duly licensed under the Ordinance. There is no provision for divorce.

Ordinance 9 of 1914 deals with the procedure for celebration of marriage in the State between Muhammadans. The Imam or Kathi of the district is the Registrar both of marriages and divorces. The amount to be paid as marriage dowry shall not exceed \$80 in the case of an unmarried woman and \$40 in the case of a woman who has been previously married. The portion of dowry paid to the parents or guardian of the bride shall not exceed one-half.

Medical Practitioners.—Ordinance 14 of 1914 provides for the establishment of a Medical Council and the registration of practitioners who must be (a) the holder of any of the British, British-Indian, or British Colonial degrees, diplomas, or licences approved by the Principal Medical Officer; (b) the holder of a degree recognised by the General Council of Medical Education and Registration in the United Kingdom.

Merchandise Marks.—Ordinance 9 of 1891 provides penalties for offences as to trade-marks which are protected by law in any country to which the provisions of s. 103 of the Imperial Patents, Designs, and Trade-mark Act are applicable. Ordinance 6 of 1893 establishes a local "Register of Trade-marks." Application to register must be made to the Governor, accompanied by a facsimile and affidavit that the deponent is entitled, solely or jointly with others named, to the exclusive use of the trade-mark.

Money-lenders.—Ordinance 19 of 1901 is designed to protect natives only and defines a "Money-lender" as a person who lends money upon usury as a business to any Asiatic other than Chinese. Money-lenders must be licensed, and keep a register of transactions for inspection by any magistrate on demand. Interest shall not exceed 15 per cent. on secured and 24 per cent. on unsecured loans on penalty of a fine of \$100 or six weeks' imprisonment.

Monopolies.—Ordinance 30 of 1914 gives power to the Governor to grant the exclusive rights within certain limits to (1) make ice for sale; (2) carry on cold-storage business; (3) make salt; (4) collect turtle eggs;

and provides a penalty of \$1,000 and forfeiture of the plant used for any encroachment on a monopoly granted under the Ordinance.

Native Tobacco.—Ordinance 7 of 1917 is designed to protect native growers and sellers of tobacco. Tobacco buyers must be licensed and growers must dispose of their crops only to licensed buyers.

Opium.—Legislation has been passed giving effect to the Opium Convention of 1912. Ordinance 31 of 1914 vests the exclusive right of importing opium and chandu and of preparing, selling, and retailing chandu in the Government.

“Opium” is used to denote the drug when unprepared and “chandu” to denote the drug when prepared for smoking, chewing, or swallowing. No person, except as permitted under the Ordinance, shall have in his possession opium or chandu other than Government chandu, and a report signed by the Commissioner of Excise that he is satisfied by analysis that any chandu is not Government chandu shall be conclusive evidence of the facts stated therein, and neither the Commissioner nor the Analyst shall be cross-examined with regard to the contents of such report.

Government may license retail sellers of chandu and keepers of houses for smoking chandu. Extensive powers of arrest and search without warrant are given to the chandu officers and police. Any Court recording a conviction under the Ordinance may order the finger-prints of the defendant to be taken.

In any trial where two or more persons are charged together the Court may require one or more of the defendants to give evidence for the prosecution and may sentence any such defendant refusing to be sworn or to answer any question to a fine of \$1,000 and/or six months' imprisonment, but any defendant who makes true and full discovery of all things concerning which he was examined shall not be liable to any legal proceedings in respect of such things.

There are also special provisions designed to protect informers. The Court shall not inquire into the manner or form of making any seizure except in so far as the manner and form of seizure may be relevant to the facts in issue. No witness shall be obliged or permitted to disclose the name of any informer, and in any book or document in evidence the Court shall cause all passages which might disclose the name of an informer to be concealed from view, but if in the trial of any offence under the Ordinance the Court believe that an informer made a statement which he did not believe to be true or if in any other proceeding the Court is of opinion that justice cannot be done between the parties without the discovery of an informer the Court may permit disclosure.

The master and owner of any ship used for opium smuggling are liable to a fine of \$5,000, and when opium or chandu exceeding 100 tahils in the case of a ship of 500 tons or more, 50 tahils in the case of a ship of 150 tons but under 500 tons, and 10 tahils in the case of any other vessel, is found on board a ship it shall be evidence that the ship has been used for smuggling, and the master and owner are liable unless they can prove that they have taken every reasonable precaution and that no persons employed on board the ship were implicated in the smuggling.

Patents.—Ordinance 2 of 1908 provides for the registration of Patents within the State. The inventor or an authorised agent may petition the Governor for leave to file a specification. The Governor may authorise the petitioner to file a specification or may refer the petition to any persons for inquiry or report, or may refuse authority if it appears to him that to

grant exclusive privileges would be prejudicial to the public interests or of doubtful public utility.

When leave to file has been granted the Governor may grant to the petitioner and his heirs and assigns the exclusive privilege of making, selling, and using the invention in the State for 14 years, and the Governor may renew the privilege for a further 14 years upon petition. Holders of English letters patent may petition for the extension of the privilege to this State for the term of the patent in the United Kingdom or for fourteen years. The Register of Specifications is open to public inspection at the Government Secretary's Office.

Actions for infringement lie to the High Court, and a motion may be made to the High Court to declare a patent bad on the grounds that the invention was not new; that the petitioner was not the inventor and that the inventor had acquiesced in the public use of the invention; that the specification filed does not describe the invention, or that there was a fraud or false statement in the petition or specification.

Pawnbrokers.—Ordinance 8 of 1915 orders and regulates the issue of licences to pawnbrokers, and gives power to Government to grant exclusive rights of pawnbroking. Special provisions are: No goods exceeding \$250 in value to be received except upon reference to some householder; a magistrate may order stolen goods to be restored to the rightful owner by the pawnbroker without payment; no article to be accepted from a child under 16 years old or from any intoxicated persons. Rates of monthly interest not to exceed on sum of up to \$1, 10 per cent.; on sum of up to \$10, 7 per cent.; on sum of up to \$50, 6 per cent.; on sum of over \$50, 2 per cent.

Pearl Oyster Shell Fishery.—Ordinance 1 of 1916 prohibits the use of any vessel in pearl oyster shell fishery except under licence, and provides for the lease of areas within territorial waters.

Petition Writers.—Ordinance 9 of 1915 deals with professional petition writers, and requires such persons to be licensed.

Poll Tax.—Ordinance 9 of 1902 exempts from the annual tax of \$1 any native who pays \$3 in rent or taxes. Ordinance 1 of 1911 renders every adult male native liable to an annual tax of \$1 subject to the exemption above, but further exempts (a) natives through age or disability unable to earn their livelihood; (b) natives on written contract to serve the Government for 12 months; (c) natives serving a term of imprisonment; (d) natives residing in the towns of Jesselton and Sandakan or on the East Coast.

Ports and Harbours.—Ordinance 20 of 1914 provides rules to be observed by masters of merchant vessels entering the ports of the State. They must report to the Harbour Master within twenty-four hours of arrival, and must not leave without a port clearance. The Ordinance further provides harbour regulations that are of the usual description and call for no detailed summary or comment.

Postal.—Ordinance 5 of 1893, Ordinance 6 of 1904, and Ordinance 6 of 1907 give the Postmaster-General the exclusive privilege of conveying by post all letters except (a) letters not exceeding three in number carried by a friend without reward; (b) letters solely concerning the affairs of the sender or receiver thereof, sent by messenger on purpose; (c) open letters marked "consignee's letter," solely concerning goods sent to be delivered with them. Common carriers or persons on board vessels are excluded from exceptions (a) and (b) above. Every person

proposing to dispatch a vessel from any port must give notice to the officer-in-charge of the Post Office and any master refusing to carry mails is liable to a penalty of \$500.

Power of Attorney.—Ordinance 20 of 1901 enacts that no power of attorney shall be valid in the State until it has been registered, and a true copy filed, in the office of the chief local magistrate.

Prisons.—Ordinance 2 of 1914 regulates the duties and powers of prison officers, and gives rules for the work, conduct, etc., of prisoners.

Public Servants.—Ordinance 19 of 1914, designed to protect subordinate public servants, enacts that no action shall be maintained against any person employed in Government service at a salary of \$150 per month or less (1) upon any promise to repay money lent ; (2) upon any promise to answer for the debt of another person ; (3) upon any unsecured bond, bill of exchange, or promissory note.

Quarantine.—Ordinance 5 of 1915 gives power to the Governor to make rules to prevent the introduction of disease and to deal with ships arriving from infected ports.

Railways.—Ordinance 21 of 1914 is the constitution of the State Railway. It carefully limits the liability of Government for goods lost, destroyed, or injured, and, while no obligation to fence is imposed upon the Government, the owners of animals found trespassing on the railway are penalised.

Road Rate.—Ordinance 12 of 1901 empowers the Governor to levy a road rate on all land to which access is given or which is benefited by a public road. As yet this Ordinance has not been called into general use.

Rubber Dealers.—Ordinance 29 of 1914 prohibits the purchase, treatment, or storage of rubber except under licence and provides rules to be observed by the licensees, the object being to prevent theft of rubber or latex.

Rules.—Ordinance 4 of 1906 gives the Governor power to alter by notification in the *Gazette* any provisions in an Ordinance which do not affect the main principle and purpose or the authority of the law in question.

Sanitary Boards.—Ordinance 22 of 1901 provides for the establishment of local Sanitary Boards with power to pass by-laws and to deal with streets, lighting, water, fire, buildings, markets, sanitation, etc., within their areas.

Seed Pearls.—Ordinance 4 of 1917 requires a licence to be taken out by seed pearl or seed pearl shell workers.

Societies.—Ordinance 7 of 1915, which repeals former Ordinances designed to suppress Chinese secret societies, provides for the compulsory registration of any club, company, partnership, or association of ten or more persons, except trade associations, or associations registered under any Ordinance, or any recognised body of Freemasons.

Any association not registered or exempted is an unlawful society, and the penalty for managing an unlawful society may be a fine of \$2,000 and three years' imprisonment, and for being a member or attending meetings may be a fine of \$500 or six months' imprisonment. Full powers of search, etc., are given to the Registrar, magistrates, and police officers.

Shipping.—Ordinance 11 of 1914 provides for the establishment of a Marine Court of Inquiry, the registration and survey of ships, the

qualifications of masters, mates, and engineers, the discipline of crews, and the regulation of shipping.

By s. 13 a shipowner's liability is limited to (a) for death or injury to the person, to \$125 per ton of registered tonnage; (b) for loss or damage to property, to \$70 per ton of registered tonnage.

Stamps.—Ordinance 4 of 1915 provides for the stamping of documents.

Sunday Cargo.—Ordinance 2 of 1894 forbids the working of cargo on Sundays except by permit from the Superintendent of Customs.

Telegraphs.—Ordinance 6 of 1901 gives Government the exclusive privilege of establishing and working telegraphs, and the right to take the lines across private land on payment of compensation for damage. The enactment also provides penalties for unlawful tampering with telegraphs and unlawful disclosure of any message.

Ordinance 15 of 1914 prohibits the establishment of wireless telegraph apparatus without licence.

Telephone.—Ordinance 4 of 1913 gives power to the Governor to call upon the manager of any estate to establish telephonic communication between his estate and a police station, under penalty of a fine of \$500 and a further fine of \$10 for every day's delay.

Timber.—Ordinance 11 of 1916 prohibits the cutting or removal of timber or firewood from State lands except under licence, and except by natives for their personal use. The enactment provides regulations for the issue of licences.

Tokens.—Ordinance 18 of 1903 legalises the use of token money on estates subject to certain restrictions. In the event of the failure, reconstruction, or transfer of the estate, the tokens in circulation are a first charge upon the assets. The practice was permitted owing to the scarcity of small coins, but is gradually being abolished.

Turtle Preservation.—Ordinance 5 of 1917 is designed to preserve turtles by restricting permission to capture or kill turtles to duly licensed persons. Any person purchasing turtle shell except from a duly licensed vendor is liable to a fine of \$100 and three months' imprisonment.

Vaccination.—Ordinance 8 of 1916 makes vaccination compulsory, and provides penalties for omission.

Vehicles and Porters.—Ordinance 25 of 1914 gives power to local Sanitary Boards to fix maximum rates of hire for vehicles and to control and license drivers and porters.

Ordinance 4 of 1916 provides for the registration and taxation of vehicles.

Victoria Day.—Ordinance 21 of 1903 commemorates the reign of Queen Victoria by declaring the 24th of May in every year a public holiday.

Volunteers.—Ordinance 7 of 1916 constitutes a Volunteer Force.

War Emergency.—Ordinance 1 of 1917, which gave the Governor wide powers to deal with special conditions arising from the war, lapsed six months after the cessation of the war, but certain of its provisions have been extended to meet the situation arising from the shortage of rice and foodstuffs.

Weights and Measures.—Ordinance 3 of 1915 provides for the uniformity of weights and measures in the State.

Women and Girls' Protection.—Ordinance 4 of 1903 is designed to prevent traffic in women and penalises with imprisonment up to one year and/or a fine of \$500 any person who (1) disposes of or obtains possession of any female with intent that she shall be, or knowing it likely that she

will be, employed for prostitution; (2) procures any girl of or under sixteen or woman not being a common prostitute to have unlawful carnal knowledge with any other person, or who by any false pretence brings into the State any woman for the purpose of prostitution; (3) detains any woman against her will for any unlawful purpose; (4) detains any girl between sixteen and eighteen without the consent of her guardians for any unlawful purpose; (5) unlawfully and carnally knows any girl of or under sixteen.

Traffic in girls under the age of twelve years is punishable with six months' imprisonment and/or a fine of \$200, and it is not necessary that the girls should be intended for any immoral employment.

The keeper of a brothel is liable to a year's imprisonment and/or a fine of \$500 if he delays to forward to the Protector of Chinese Labour any complaint which an inmate of a brothel may desire to make, or if he permits any woman suffering from contagious disease to remain in the brothel for the purposes of prostitution.

If the Protector suspects that any woman is being detained against her will for any unlawful purpose he may call upon the person under whose control she appears to be to furnish security to the contrary, and the Protector may order any girl under sixteen who frequents a brothel to be detained in a place of safety until she is nineteen.

A magistrate may order a brothel to be closed upon the complaint of the Protector, the police, or of three or more householders in the neighbourhood.

When an occupier of premises has been convicted under the Ordinance, the owner is liable to a fine of \$500 for any second conviction in respect of the same premises.

Any male living on the immoral earnings of a woman is liable to three months' imprisonment.

INDEX TO REVIEW OF LEGISLATION.

- Administration. *See* Constitution.
- Administration of Estates (British Columbia), 23
- North Borneo, 211
- soldiers' estates (Australia), 46
- (Manitoba), 30.
- Adoption (Italy), 170
- Agriculture. *See also* Fruit, Wheat
- (Argentina), 158, 159
- (Bahamas), 148
- drought (South Australia), 59
- education (New Zealand), 90
- (Victoria), 77
- farm implements (Manitoba), 28
- lands purchase (Western Australia), 79
- produce dealers (Manitoba), 30
- Saskatchewan), 40
- stock foods (Queensland), 54
- (United Kingdom), 7
- Aircraft (Canada), 17
- collisions (Netherlands East Indies), 187
- (Newfoundland), 42
- (United Kingdom), 13
- Aliens (Bermuda), 44
- (Canada), 18
- (China), 160
- enemy (Bahamas), 149
- (British Solomon Islands), 102
- (Ceylon), 136
- (Cuba), 166
- (Cyprus), 137
- (Fiji), 101, 102
- (Gambia), 142
- (Gold Coast), 142
- (Grenada), 151
- (Italy), 171
- (Jamaica), 151
- (Leeward Islands), 156
- (Mauritius), 137, 138
- (Nigeria), 146
- (St. Lucia), 152
- (St. Vincent), 152
- (Trinidad and Tobago), 154
- (Gibraltar), 158
- Aliens—*continued*
- naturalisation (India), 128
- (North Borneo), 212
- (United Kingdom), 12
- Amnesty (Italy), 171
- (South Africa), 121
- Amusements
- cinematographs (India), 129
- music and dancing licence (Bahamas), 149
- tax (Australia), 48
- (Cape of Good Hope), 122
- (Manitoba), 27
- (Quebec), 38
- Animals (Alberta), 22
- diseases of (Cyprus), 157
- dogs (Fiji), 101
- (North Borneo), 214
- importation (Bahamas), 149
- (South Australia), 66
- wild (North Borneo), 213
- (Zanzibar), 147
- Apportionment (Jamaica), 151
- Arbitration (Saskatchewan), 40
- Asiatics (Netherlands East Indies), 180
- South Africa), 111
- Banking (Argentina), 158
- foreign banks (Grenada), 151
- (Italy), 172
- (Leeward Islands), 156
- (St. Lucia), 152
- (St. Vincent), 152
- (Trinidad and Tobago), 154
- (Japan), 175
- Bank Notes (Newfoundland), 43
- Bankruptcy (Canada), 17
- (France), 168
- Barbers (Manitoba), 28
- Barristers. *See* Legal practitioners.
- Beavers (Newfoundland), 43
- Bees, diseases of (British Columbia), 26
- Bills of Exchange (South Africa), 121
- Bills of Sale (North Borneo), 213

- Birds, protection of (Quebec), 37
 (South Australia), 66
 Blind, care of (Manitoba), 27
 Boarding houses (Victoria), 73
 Boy Scouts (Gibraltar), 158
 (St. Lucia), 152
 Bread, manufacture of (Quebec), 38
 Burials (North Borneo), 213
 Business Profits Tax (Newfoundland),
 44
 Canals (Central Provinces), 134
 Ministry of Transport (United
 Kingdom), 4
 (Netherlands), 177
 Cantonments (India), 129
 Capital punishment (Gambia), 141
 (United States), 188
 Cattle, live stock (Manitoba), 29
 (North Borneo), 213, 214
 slaughter of calves (Western Aus-
 tralia), 83
 Censorship (Italy), 171
 Census (Argentine), 159
 (Japan), 177
 (North Borneo), 214
 Children. *See also* Adoption; Legi-
 timation.
 emigration of (Dominica), 157
 employment of (Quebec), 37
 maintenance of (Victoria), 74
 medical treatment of (United King-
 dom), 15
 protection of (New Brunswick), 31
 (St. Vincent), 153
 (Trinidad and Tobago), 154
 (Western Australia), 82
 (Saskatchewan), 41
 smoking by (Bengal), 131
 Church of England
 Assembly (United Kingdom), 10
 Cinematograph. *See* Amusements.
 Cirenaica, government of (Italy), 173
 Citizenship (Argentine), 159
 Civil Service (Bermuda), 44
 (Canada), 18
 (Manitoba), 27
 military service (South Africa), 117
 (Netherlands East Indies), 181
 official appointments (New Zea-
 land), 92
 (Queensland), 54
 retired officers (United Kingdom),
 14
 (South Australia), 64
 superannuation (Papua), 86
 (South Australia), 55
 (Tasmania), 67
 Cocoa (Gold Coast), 142
 Coffee (Netherlands East Indies), 180
 Coinage (India), 129
 Royal Mint (South Africa), 116
 Commercial activities (Australia), 46
 (Italy), 173
 Companies, advances to (Victoria), 77
 (India), 129
 lands owned by (British Columbia),
 24
 loan (Saskatchewan), 41
 (New Zealand), 95
 (North Borneo), 210
 winding up (Quebec), 38
 Compensation, Criminal injuries
 (United Kingdom), 15
 Conscription. *See* Military Service.
 Constabulary. *See* Police.
 Constitution (Ashanti), 144
 (Australia), 45
 (Gambia), 141
 (Northern Territories), 144
 (Queensland), 50
 Contraband (Italy), 170
 Co-operative societies (Alberta), 23
 Coroners (British Columbia), 26
 (North Borneo), 214
 Cotton (Bombay), 131
 County Courts (Ontario), 33
 (Victoria), 78
 Criminal Law (Bermuda), 44
 (Canada), 17
 indecency (Victoria), 77
 (India), 126
 juvenile offenders (Gold Coast), 143
 larceny (Trinidad and Tobago), 154
 (Netherlands), 178
 (New Zealand), 93
 (Papua), 88
 probation of offenders (Bahamas),
 149
 prostitution (Ceylon), 136
 (Straits Settlements), 138
 Criminal procedure (St. Vincent), 152
 (United States), 188
 (Zanzibar), 147
 Crown Lands (British Columbia), 24
 (Italy), 173
 (New Zealand), 96
 Crown servants (Papua), 86
 Crown suits (Western Australia), 81
 Currency (Bahamas), 149
 (Chile), 159
 (Gambia), 141
 (India), 125, 129, 135
 (Japan), 176
 (Leeward Islands), 156
 (Mauritius), 137
 (Netherlands East Indies), 183
 (Nigeria), 144

Currency—*continued*

- (North Borneo), 214, 221
- (St. Vincent), 153
- Customs (Australia), 46
 - (Bahamas), 148
 - (Cape of Good Hope), 121
 - (Gambia), 141
 - (India), 128, 129
 - (Netherlands East Indies), 186
 - (North Borneo), 214
 - (Papua), 87
 - (South Africa), 120
 - (Trinidad and Tobago), 155

Dairies (Queensland), 50

- (Saskatchewan), 40
- (Victoria), 76

Daylight Saving (British Columbia), 24

- (Gold Coast), 143
- (Nigeria), 146
- (Tasmania), 68

Debts, attachment of (Saskatchewan), 41

Defence Force (Gambia), 141

- (India), 125
- (St. Christopher and Nevis), 157
- (United Kingdom), 13, 14

Deportation (Gambia), 142

- (Leeward Islands), 156
- (North Borneo), 213

Diamond cutting (South Africa), 113

Diamond export duty (Gold Coast), 143

Divorce, (Cuba), 165 Expeditionary Forces (Australia), 46

- (France), 167
- (New Zealand), 100
- (United States), 191
- (Western Australia), 83

Documents, legal (Gambia), 140

Dogs. *See* Animals.

Dower (Alberta), 22

- (Manitoba), 27, 28

Drainage (Ceylon), 136

Drought (South Australia), 59

Drugs, cocaine (North Borneo), 214

opium (North Borneo), 218

sale of (Manitoba), 27

(United States), 199

Education (Alberta), 22

- (Bengal), 131
- (Bihar and Orissa), 133
- (Cape of Good Hope), 121, 122
- (Italy), 173
- (Japan), 175
- (Mauritius), 138
- Mico Charity (Leeward Islands), 156

Education—*continued*

- (Netherlands), 177
- (Netherlands East Indies), 184
- (New Zealand), 89, 94
- (Nigeria), 145
- (Punjab), 134
- scholarships (Fiji), 101
- (Grenada), 151
- (Jersey), 16
- soldiers' children (Saskatchewan), 40
- technical (Canada), 18
 - (France), 168
 - (Quebec), 37
 - (Saskatchewan), 40
- trustee (British Columbia), 26
- university (Argentina), 159
 - (New Zealand), 89, 90
 - (Western Australia), 85
- Eggs, sale of (Alberta), 21
 - (Saskatchewan), 40
- Elections (Australia), 46, 47
 - (Bahamas), 148
- extension of franchise (Jersey), 16
 - (Prince Edward Island), 34
 - (France), 168
- municipal (Transvaal), 123
 - (Newfoundland), 42
- soldiers (New Zealand), 99
 - (United Kingdom), 14
 - (Western Australia), 85
- Electricity, supply of (Fiji), 102
 - (Manitoba), 28
 - (New Zealand), 96
 - (North Borneo), 215
 - (United Kingdom), 5
- Emigration (Italy), 173
- Employment agencies (British Columbia), 25
 - (Manitoba), 27
- Enemy Aliens. *See* Aliens.
- Enemy Property (Ceylon), 136
 - (Nigeria), 146
- Entertainments. *See* Amusements.
- Estate Duty (St. Vincent), 153
 - (Zanzibar), 148
- Evidence (Newfoundland), 42
- Excess Profits (Grenada), 151
 - (India), 126
 - (Japan), 175
- Excise (United Provinces), 133
 - validation (Australia), 46
- Execution (Gibraltar), 158
- Expiring laws continuance (New Zealand), 88
- Exports, regulation of (Italy), 170
- Extradition (Cyprus), 157
 - (North Borneo), 215

- Factories (Alberta), 22
 Fauna and flora (South Australia), 65
 Fencing (South Australia), 59
 Feudal service (Netherlands East Indies), 180
 Fighting men. *See also* Elections; Military Service; Pensions.
 advances to (New Zealand), 88, 100
 (Victoria), 69
 affidavit of (Quebec), 39
 divorce (Australia), 46
 employment of (Italy), 170,
 (South Australia), 55
 estates of (Australia), 46
 (Manitoba), 30
 housing of (Australia), 50
 (Prince Edward Island), 34
 (Quebec), 35
 (South Australia), 56, 57
 land for (Canada), 18
 (New Brunswick), 31
 (New Zealand), 98
 (Quebec), 35
 (Queensland), 51
 (South Australia), 55, 56
 (United Kingdom), 13, 15
 (Victoria), 69
 (Western Australia), 79, 80
 monuments to (Quebec), 38
 proof of death (Quebec), 38
 public servants (South Africa), 117
 relief to (Manitoba), 30
 succession duties (South Australia), 56
 (United States), 199
 wills (Tasmania), 67
 Finance (Chile), 159
 (Gold Coast), 144
 (Netherlands East Indies), 183
 (New Zealand), 99
 (St. Lucia), 152
 (South Africa), 120
 (South Australia), 57
 (Transvaal), 124
 (United Kingdom), 7
 Fire, prevention of (Alberta), 22
 (Canada), 17
 (Prince Edward Island), 34
 Fire insurance policies (British Columbia), 25
 Firearms (Bahamas), 150
 (Gambia), 141
 (Grenada), 151
 (India), 129
 (South Australia), 61
 sporting (South Australia), 67
 (Tasmania), 67
 Firms, registration of (France), 167
 Fisheries (New Zealand), 89
 (United Kingdom), 7
 Flogging (North Borneo), 215
 Food, adulteration of (Bengal), 132
 (Bihar and Orissa), 133
 (Central Provinces), 134
 (Punjab), 134
 (Fiji), 101
 (Straits Settlements), 138
 supply (Netherlands East Indies), 186
 Foreign judgments (Italy), 172
 Forestry (Madras), 130
 (United Kingdom), 7
 (Western Australia), 79
 Friendly Societies (Dominica), 157
 (Gambia), 141
 Fruit (Tasmania), 68
 (Western Australia), 84
 Gaming (Bombay), 131
 (North Borneo), 215
 Habitual offenders (Burma), 134
 Hackney carriages (Bengal), 131
 Harbours
 loan (Fiji), 102
 Ministry of Transport (United Kingdom), 4
 (North Borneo), 219
 (South Australia), 64
 Hawkers (Manitoba), 28
 Highways (Bahamas), 148
 (Canada), 18
 Ministry of Transport (United Kingdom), 4
 (Ontario), 32
 (Trinidad and Tobago), 154
 (Western Australia), 83
 Holidays. *See* Public Holidays.
 Horse-breeding (Alberta), 22
 (Quebec), 37
 (Victoria), 77
 Hospitals (Alberta), 21
 (Manitoba), 30
 nurses (Cape of Good Hope), 122
 private (Transvaal), 124
 (Victoria), 73
 (South Australia), 63
 Housing (British Columbia), 23
 (Italy), 171
 (New Brunswick), 31
 (Newfoundland), 42
 (New Zealand), 95
 (Prince Edward Island), 34
 (Punjab), 134
 (Quebec), 35
 (Queensland), 51

- Housing—continued**
 shearers' accommodation (New Zealand), 99
 (Tasmania), 68
 (United Kingdom), 9, 15
- Illiterates** (Bahamas), 148
 (St. Vincent), 153
- Immigration** (Bahamas), 150
 (Fiji), 102
 (Grenada), 151
 (Jamaica), 151
 (New Zealand), 97
 (North Borneo), 216
 (Straits Settlements), 139
- Imports, regulation of** (Italy), 170
- Income Tax** (Australia), 47
 (India), 125
 (Jamaica), 151
 (New Zealand), 89
 (Queensland), 50
 (St. Vincent), 153
 (South Africa), 120
 (South Australia), 57
 (Tasmania), 69
 (Trinidad and Tobago), 155
- Indemnity** (Bermuda), 44
 (India), 130, 135
 (Jamaica), 150
 (Zanzibar), 146
- Industrial Arbitration** (United Kingdom), 8
 (United States), 193
- Industrial research** (Manitoba), 29
- Industrial societies** (New Zealand), 97
- Inebriates** (Western Australia), 83
- Infants.** *See* Children.
- Infectious diseases** (South Africa), 108
- Inquests** (South Africa), 103
- Insect pests** (British Columbia), 26
 insecticides (South Australia), 62
 (Madras), 130
 (Newfoundland), 43
 (Straits Settlements), 138
- Insurance.** *See also* Fire Insurance.
 (Italy), 171
 (Netherlands), 178
 (Newfoundland), 43
- Interpretation of Statutes** (British Solomon Islands), 102
 (Gambia), 141
- Intestate Estates** (Gambia), 142
 (United Kingdom), 15
- Irrigation.** *See* Land drainage.
- Jewellers** (North Borneo), 217
- Judicature** (Ashanti), 144
 (India), 126, 128
 (Jamaica), 150
- Judicature—continued**
 (Leeward Islands), 156
 (Netherlands East Indies), 179, 184
 (Newfoundland), 42
 (Nigeria), 145
 (North Borneo), 204
 (Northern Territories), 144
 (Ontario), 33
 (Quebec), 39
 (South Australia), 65
 (United States), 187
- Juries** (New Brunswick), 30
 payment of jurors (New Zealand), 89
- Justices** (Tasmania), 69
 (Western Australia), 82
- Labour Laws.** *See also* Industrial Arbitration; Minimum Wage.
 (Argentine), 158
 (British Columbia), 24
 (France), 168
 industrial mobilisation (Japan), 176
 (Jamaica), 151
 (Manitoba), 29
 (Netherlands), 178
 (North Borneo), 209
 (Papua), 88
 private employment (Italy), 173
 unemployment insurance (Italy), 171
 (United Kingdom), 8
- Labour, bureau of** (Saskatchewan), 41
 (Trinidad and Tobago), 154
- Labour, Ministry of** (Ontario), 32
 (Quebec), 36
- Land, acquisition of** (India), 129
 (United Kingdom), 12
 cultivation of (North Borneo), 216
 drainage (Manitoba), 28
 (South Australia), 56
 fencing (South Australia), 59
 registration of (British Columbia), 25
 (British Solomon Islands), 102
- Landlord and tenant** (Bengal), 131
 distress for rent (North Borneo), 214
 (United States), 189
- Land settlement.** *See also* Fighting men.
 (British Columbia), 25
 (New Zealand), 97
- Land Tax** (Alberta), 20
 (Australia), 48
 (Manitoba), 27, 29
 (New Zealand), 89
 (South Australia), 57
 (Tasmania), 69

- Land tenure (Fiji), 101
 (Netherlands East Indies), 184
 (North Borneo), 207
- Land transfer (Alberta), 20, 21
 (Australia), 48
- Legal practitioners (Italy), 170
 solicitors (Argentine), 159
 (Tasmania), 68
 (United States), 188
- Legal proceedings (Australia), 48
- Legislature (Bahamas), 149
 (British Columbia), 24
 government of India (United Kingdom), 2
 (Japan), 174
 legislation drafting (United States), 191
 (Newfoundland), 42
 payment of Members (Queensland), 50
 (Tasmania), 68
 (Western Australia), 86
 (Western Australia), 84
 women members (New Zealand), 92
 (Ontario), 32
- Legitimation (British Columbia), 25
 (Saskatchewan), 42
- Lepers (North Borneo), 216
- Libraries. *See* Public Libraries.
- Licences (Transvaal), 124
- Lighthouses (Australia), 48
- Liquor, control of (New Brunswick), 31
 (North Borneo), 216
 (Prince Edward Island), 34
 (Queensland), 53
 (Saskatchewan), 41
 (South Australia), 56
 licensing (Victoria), 71
 prescriptions (Alberta), 23
 prohibition (Canada), 18
 (Nigeria), 146
 (Quebec), 36
 (United States), 190
- Live stock. *See* Cattle.
- Loans (Australia), 48
 (Netherlands), 178
 (South Africa), 120
- Local government (Alberta), 19
 (Assam), 133
 (British Columbia), 25
 (Cape of Good Hope), 122
 election expenses (United Kingdom), 14
 loans to local authorities (New Zealand), 100
 (Madras), 130
 (Netherlands East Indies), 181
 (Newfoundland), 42
 (Nigeria), 145
- Local government—*continued*
 proportional representation (Saskatchewan), 40
 (United Kingdom), 15
 (Quebec), 37, 39
 (Transvaal), 123
 villages (Bengal), 132
 (Western Australia), 84
- Lunacy (Alberta), 22
 (Manitoba), 29
 (Nigeria), 145
 (North Borneo), 216
 (Quebec), 37
- Maintenance (British Columbia), 24
 (Victoria), 74
- Margarine (Canada), 19
- Markets (Bahamas), 149
- Marriage (British Columbia), 25.
 (Ceylon), 136
 (Cuba), 163
 (Fiji), 100
 (France), 168
 (New Zealand), 93
 (North Borneo), 217
 (Ontario), 33
 registers (South Africa), 121
 (United States), 191
 validation (Victoria), 74
- Married women (Italy), 172
- Martial law. *See* Indemnity.
- Medical practitioners (North Borneo), 217
 (South Australia), 61
 (Tasmania), 67
- Military Service. *See also* Fighting men.
 conscription (Cuba), 166
 (Italy), 171, 173
 (Japan), 176
 (Netherlands East Indies), 184
 (Ontario), 32
- Minerals
 ore-reduction works (British Columbia), 26
- Miners' phthisis (South Africa), 109
- Mines (Australia), 48
 coal (British Columbia), 24
 (Newfoundland), 43
 (New Zealand), 96
 (United Kingdom), 8
 (France), 169
 native labour (South Africa), 111
 (Netherlands East Indies), 185
 non-ferrous metal (Gold Coast), 142
 (Nigeria), 145
 (Ontario), 32
 (Queensland), 54
 (United States), 197

Minimum wage (Manitoba), 27
 women (Quebec), 35
 Ministries, establishment of (United Kingdom), 5
 development board (Bahamas), 149
 labour (Ontario), 32
 (Quebec), 36
 Moneylenders (Federated Malay States), 140
 (North Borneo), 217
 Monopolies (North Borneo), 217
 Moratorium (Australia), 49
 (South Africa), 116
 (United States), 200
 Mortgages (New Zealand), 89
 Mosquitoes. *See* Insect pests.
 Mothers' pensions (Alberta), 22
 Motors, spirit duty (India), 125
 Municipal affairs. *See* Local Government.
 National Insurance (United Kingdom), 8
 Nationality. *See* Citizenship.
 National Provident Fund (New Zealand), 93
 Native government (Netherlands East Indies), 183, 183
 Native plantations (Papua), 87
 Naturalisation (Bahamas), 149
 (India), 128
 (Jamaica), 151
 (Straits Settlements), 139
 Negotiable instruments (India), 126
 Noxious shrub (Fiji), 101
 Nurses (Alberta), 21
 (United Kingdom), 13, 15
 Oaths (India), 125
 Oil, alien corporation (Bermuda), 44
 Opium (North Borneo), 218
 Palm kernels, export duty (Gold Coast), 143
 (Nigeria), 145
 Passports (Bahamas), 150
 (Italy), 171
 (Netherlands East Indies), 181
 Patents (North Borneo), 218
 "Patria potestas" (Argentina), 159
 Pawnbrokers (North Borneo), 219
 Peace Treaty (Australia), 50
 (Leeward Islands), 156
 (New Zealand), 93
 (South Africa), 103
 (United Kingdom), 2
 Pearl Fishery (North Borneo), 219
 (Papua), 87
 Peat (Netherlands), 177

Pensions. *See also* Mothers' pensions
 nurses (Transvaal), 124
 old age (Australia), 48
 (United Kingdom), 8
 war (Bermuda), 45
 (Canada), 17
 (India), 125
 (Newfoundland), 43
 (New Zealand), 99
 (South Africa), 118
 Plant diseases (North Borneo), 212
 (Trinidad and Tobago), 155
 Poisons (Alberta), 23
 (India), 128
 Police (Alberta), 21
 (Bengal), 132
 (Bermuda), 44
 (Canada), 19
 (Gibraltar), 157
 (Netherlands East Indies), 184
 (New Zealand), 98
 (North Borneo), 214
 (United Kingdom), 14, 15
 Poor law (Cape of Good Hope), 122
 Postage (Fiji), 101
 (Netherlands), 178
 (New Zealand), 90
 (North Borneo), 219
 Prevention of Corruption (France), 167
 Prices, regulation of. *See* Profiteering.
 Prisons (Papua), 87
 Profiteering (Canada), 17
 (Italy), 170
 (New Zealand), 92, 98
 (Queensland), 53
 (St. Christopher and Nevis), 157
 (South Australia), 60
 (Trinidad and Tobago), 155
 (United Kingdom), 14
 (Victoria), 69
 (Western Australia), 85
 Property, protection of (Zanzibar), 147
 Provident fund (India), 128
 Public health (Alberta), 20
 (Argentina), 159
 (Netherlands), 177
 (Netherlands East Indies), 185
 (New Zealand), 94
 (North Borneo), 220
 (South Africa), 105
 (United Kingdom), 6, 15
 (Victoria), 71
 Public holidays (Western Australia), 81
 Public libraries (British Columbia), 25

- Public meetings (Netherlands East Indies), 179
- Public officers. *See* Civil Service.
- Public Trustee (Ontario), 33
(New Zealand), 89
(Tasmania), 68
- Public utilities (United States), 197
- Quarantine (North Borneo), 220
- Rabies (Newfoundland), 43
- Radium, institute for (Argentina), 159
- Railways (Canada), 17, 18
(Chile), 160
employees (Argentina), 158
- Ministry of Transport (United Kingdom), 4
(New Brunswick), 31
(New Zealand), 96
(North Borneo), 220
(South Australia), 65
(Victoria), 75
- Rating (Transvaal), 124
- Referendum (Prince Edward Island), 34
- Registration births, deaths, and marriages, (Gambia), 141
(Ontario), 32
(Prince Edward Island), 34
documents (Zanzibar), 147
- Rent restriction (New Zealand), 96
(Queensland), 52
(United Kingdom), 13
- Repair shops (Manitoba), 27
- Rice (Japan), 176
- Rivers (South Australia), 58
- Roads. *See* Highways.
- Roman Catholics (Bermuda), 45
- Rubber (North Borneo), 220
- Sale of goods (New Brunswick), 31
(Prince Edward Island), 34
(St. Vincent), 153
- Sand-drifts (Western Australia), 84
- Savings banks (Victoria), 69
(New Zealand), 90
- Secondhand dealers (Newfoundland), 43
(South Australia), 63
- Secret societies (North Borneo), 220
- Sedition (Bahamas), 150
(Leeward Islands), 156
(United States), 196
- Seed grain (Alberta), 19
(Manitoba), 27
- Shipping (Australia), 48, 49
(Bahamas), 149
(Bermuda), 44
- Shipping—*continued*
(Chile), 159
(Fiji), 101, 102
(India), 129
(Japan), 176
(North Borneo), 220
wireless telegraphy (United Kingdom), 14
- Shops, early closing (Fiji), 102
(Transvaal), 124
- Silver, exportation of (Bahamas), 150
(Leeward Islands), 156
(Mauritius), 137
- Smoking, juvenile (Bengal), 131
- Solicitors. *See* Legal practitioners.
- Stallions. *See* Horse-breeding.
- Stamp duties (Bermuda), 45
(Mauritius), 137
(South Australia), 57
- Statute law revision (Dominica), 157
(India), 129
(Ontario), 32
(Quebec), 34
(Saskatchewan), 42
(Zanzibar), 147
- Statute of Limitations, suspension of (Western Australia), 83
- Succession duties (Ceylon), 136
(Ontario), 32
(Quebec), 37
(Saskatchewan), 39
(South Australia), 56, 57
- Sugar (Mauritius), 137
- Summer time. *See* Daylight saving.
- Taxes. *See also* Business profits tax.
(Alberta), 19
(Cape of Good Hope), 122
(Japan), 175
(Papua), 87
poll tax (North Borneo), 219
relief to soldiers (Manitoba), 30
(St. Lucia), 152
(South Australia), 57
war (Ontario), 31
- Telegraphs (North Borneo), 221
- Telephones (Newfoundland), 42
(North Borneo), 221
- Termination of the war. *See* War.
- Timber (Newfoundland), 43
(North Borneo), 221
- Time. *See* Daylight saving.
- Tobacco (North Borneo), 218
- Tokens (North Borneo), 221
- Town planning (France), 167
(New Zealand), 95
(South Australia), 63
(United Kingdom), 9, 15
(United Provinces), 133

- Trade Boards (New Zealand), 90, 91
Trade customs, restoration of (United Kingdom), 8
Trade marks (Australia), 50
 (Cuba), 166
 (North Borneo), 217
Trades, dangerous, regulation of
 (Victoria), 72
Trade unions (Jamaica), 151
Trading with the enemy (Nigeria), 146
 (Grenada), 151
Traffic, regulation of (Western Australia), 85
Transport Ministry (United Kingdom), 4
Treaties. *See also* Peace Treaty.
 Anglo-French Treaty, defence of France (United Kingdom), 2
 Nauru Island Agreement (Australia), 49
Tripolitania, government of (Italy), 173
Trocas shell (Fiji), 100
Trustees (Ontario), 33
Tuberculosis. *See also* Miners' Phthisis
 (South Africa), 108
Turtles (North Borneo), 221
Uniformity of law (United States), 189
Universities. *See* Education.
Vaccination (Gold Coast), 143
 (North Borneo), 221
 (South Africa), 109
 (Victoria), 73
Vehicles (North Borneo), 221
 (South Australia), 59
 (Western Australia), 85
Venereal diseases (British Columbia), 25
 (Jersey), 16
 (Manitoba), 30
 (Papua), 87
 (South Africa), 108
 (United States), 198
Vermin (Western Australia), 78
Vexatious actions (Ceylon), 136
Wages. *See also* Trade Boards.
 (United States), 192
War. *See also* Fighting men; Pensions.
 badges (Italy), 170
 damages (Italy), 170
 occupied territories (Italy), 171
 termination of (Australia), 50
 (Bahamas), 149
 (France), 169
 (Gambia), 141
 (Gold Coast), 142
 (Grenada), 151
 (India), 125
 (St. Christopher and Nevis), 157
 (St. Lucia), 152
 (St. Vincent), 154
 (Trinidad and Tobago), 155
Water power (Quebec), 38
Water supply (Netherlands East Indies), 182
Wharves (Gibraltar), 157
 (Argentine), 159
Wheat (South Australia), 58
Wills (Ontario), 32
Wireless telephony (Australia), 50
Women. *See also* Legislature.
 Mothers' pensions.
 institute for (Alberta), 21
 maternity benefit (Italy), 170
 minimum wage (Quebec), 35
 protection of (North Borneo), 221
 removal of disqualification of (Italy), 173
 (United Kingdom), 10
Women suffrage (New Brunswick), 31
 (United States), 190
Workmen's Compensation (Alberta), 22
 (British Columbia), 26
 (Quebec), 38
 (South Australia), 62
 (Tasmania), 67
 (United Kingdom), 8
 (United States), 194



